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Tuesday
May 23, 1995

Briefings on How To Use the Federal Register
For information on a briefing in Boston, MA see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

BOSTON, MA

WHEN: June 20 at 9:00 am

WHERE: Room 419, Barnes Federal Building
495 Summer Street, Boston, MA

RESERVATIONS: Call the Federal Information Center
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Electronic Bulletin Board
Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 436 and 442

[Docket No. 94N–0352]

Antibiotic Drugs; Cefuroxime Axetil for Oral Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to include the accepted standards for cefuroxime axetil for its use in a new dosage form of cefuroxime axetil, cefuroxime axetil for oral suspension. The manufacturer has supplied sufficient data and information to establish its safety and efficacy.

DATES: Effective June 22, 1995; written comments, notice of participation, and requests for a hearing by June 22, 1995; data, information, and analyses to justify a hearing by July 24, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James Timper, Center for Drug Evaluation and Research (HFD–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6714.

SUPPLEMENTARY INFORMATION: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to a request for approval of a new dosage form of cefuroxime axetil, cefuroxime axetil for oral suspension. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in parts 436 and 442 (21 CFR parts 436 and 442) to include the accepted standards for this product.

Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Submitting Comments and Filing Objections

This final rule announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this final rule is not controversial and because, when effective, it provides notice of accepted standards, FDA finds that notice and comment procedure is unnecessary and not in the public interest. This final rule, therefore, is effective June 22, 1995. However interested persons may, on or before June 22, 1995, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this final rule may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before June 22, 1995, a written notice of participation and request for a hearing, and (2) on or before July 24, 1995, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for a hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for a hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this document and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for a hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Parts 436 and 442

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 436 and 442 are amended as follows:

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

1. The authority citation for 21 CFR part 436 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

2. Section 436.215 is amended by alphabetically adding a new entry to the table in paragraph (b) and by revising paragraph (c)(9) to read as follows:

§ 436.215 Dissolution test.

* * * * *

(b) * * *

Dosage form	Dissolution medium	Rotation rate [1]	Sampling time(s)	Apparatus
* *	*	*	*	* *
Cefuroxime axetil for oral suspension.	900 mL Sorenson's Modified Phosphate Buffer, pH 7.0.	50	30 min	2
* *	*	*	*	* *

[1] Rotation rate of basket or paddle stirring element (revolutions per minute).

(c) * * *

(9) *Cefuroxime axetil tablets and powder for oral suspension*—(i) *Preparation of working standard solution*—(*a*) *Cefuroxime axetil tablets.* Accurately weigh approximately 60 milligrams of cefuroxime axetil working standard into a suitable-sized volumetric flask. Dissolve in 5 milliliters of methanol and dilute to volume with 0.07*N* hydrochloric acid to obtain a known concentration equivalent to 0.01 to 0.02 milligram of cefuroxime activity per milliliter.

(*b*) *Cefuroxime axetil for oral suspension.* Accurately weigh approximately 15 milligrams of cefuroxime axetil working standard into a 100-milliliter volumetric flask. Dissolve in 5 milliliters of methanol and dilute to volume with Sorenson's Modified Phosphate Buffer, pH 7.0 (4.2 grams of sodium dihydrogen orthophosphate dihydrate and 14.3 grams of hydrogen disodium orthophosphate dodecahydrate per liter of water).

(ii) *Preparation of sample solution*—(*a*) *Cefuroxime axetil tablets.* Filter through a 0.45-micron filter and dilute an accurately measured portion of the filtrate with sufficient 0.07*N* hydrochloric acid to obtain a concentration equivalent to 0.01 to 0.02 milligram of cefuroxime activity per milliliter (estimated).

(*b*) *Cefuroxime axetil for oral suspension.* Filter the sample through an 8-micron filter. A coarse prefilter may be used to prevent clogging. Use the filtrate solution without further dilution.

(iii) *Procedure*—(*a*) *Cefuroxime axetil tablets.* Using a suitable spectrophotometer and 0.07*N* hydrochloric acid as the blank, determine the absorbance of each standard and sample solution at the absorbance peak at approximately 280 nanometers. Determine the exact position of the absorption peak for the particular instrument used.

(*b*) *Cefuroxime axetil for oral suspension.* Using a suitable spectrophotometer and Sorenson's Modified Phosphate Buffer, pH 7.0 (4.2 grams of sodium dihydrogen orthophosphate dihydrate and 14.3 grams of hydrogen disodium orthophosphate dodecahydrate per liter of water) as the blank, determine the absorbance of each standard and sample solution at the absorbance peak at approximately 280 nanometers. Determine the exact position of the absorption peak for the particular instrument used.

(iv) *Calculations.* Determine the total amount of cefuroxime activity dissolved as follows:

$$T = \frac{A_U \times {}_C \times d \times 900}{A_s}$$

where:
T = Total milligrams of cefuroxime activity dissolved;
A_U = Absorbance of sample;
c = Cefuroxime activity of working standard solution in milligrams per milliliter;
d = Dilution factor of sample filtrate; and
A_s = Absorbance of standard.

* * * * *

PART 442—CEPHA ANTIBIOTIC DRUGS

3. The authority citation for 21 CFR part 442 continues to read as follows:

Authority: Sec. 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357).

§ 442.119a [Redesignated from § 442.119]

4. Section 442.119 is redesignated as § 442.119a and new §§ 442.119 and 442.119b are added to subpart B to read as follows:

§ 442.119 Cefuroxime axetil oral dosage forms.

§ 442.119b Cefuroxime axetil for oral suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Cefuroxime axetil for oral suspension is cefuroxime axetil with one or more suitable and harmless diluents, suspending and sweetening agents, and flavorings. When reconstituted as directed in the labeling, it contains cefuroxime axetil equivalent to 25 milligrams of cefuroxime per millimeter. Its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of cefuroxime that it is represented to contain. It passes the dissolution test. Its moisture content is not more than 0.2 percent. When reconstituted as directed in the labeling, its pH is not less than 3.5 and not more than 5.5. It passes the identity test. The cefuroxime axetil used conforms to the standards prescribed by § 442.19(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(A) The cefuroxime axetil used in making the batch for potency, isomer A ratio, moisture, crystallinity, and identity.

(B) The batch for cefuroxime potency, dissolution, moisture, pH of constituted suspension, and identity.

(ii) Samples, if required by the Director, Center for Drug Evaluation and Research:

(A) The cefuroxime axetil used in making the batch: 10 packages, each containing approximately 500 milligrams.

(B) The batch: A minimum of 12 immediate containers.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 442.19(b)(1). Working standard and sample solutions and calculations are as follows:

(i) *Preparation of working standard solution.* Dissolve approximately 15 milligrams of the cefuroxime axetil working standard, accurately weighed, in 20.0 milliliters of methanol in a 50-milliliter volumetric flask. Dilute to volume with deionized water, and swirl to mix. Store for no more than 8 hours under refrigeration and protected from light.

(ii) *Preparation of sample solution.* Reconstitute the sample as directed in

the labeling. Transfer an accurately measured representative portion of the suspension equivalent to one dose into a 200-milliliter volumetric flask. Add 10 milliliters of methanol and disperse the sample. Dilute to volume with methanol. Dilute 20.0 milliliters of this solution to volume in a 50-milliliter volumetric flask with deionized water, swirl to mix, and allow to stand for 10 minutes. (Note: A white turbidity is formed.) Filter this solution via a suitable disposable filter unit, discarding the first 5 milliliters. Store for no more than 8 hours under refrigeration and protect from light.

(iii) *Calculations*. Calculate the milligrams of cefuroxime per dose (5 milliliters) as follows:

$$\text{Milligrams of cefuroxime per 5 milliliters of sample} = \frac{A_U \times P_S \times d}{A_S \times 1{,}000}$$

where:

A_U = Sum of the areas of the cefuroxime axetil sample isomer A and isomer B peaks;

A_S = Sum of the peak areas of the cefuroxime axetil working standard isomer A and isomer B peaks;

P_S = Cefuroxime activity in the cefuroxime axetil working standard solution in micrograms per milliliter; and

d = Dilution factor of the sample.

(2) *Dissolution*. Proceed as directed in § 436.215 of this chapter. The quantity Q (the amount of cefuroxime activity dissolved) is 60 percent at 30 minutes.

(3) *Moisture*. Proceed as directed in § 436.201 of this chapter.

(4) *pH*. Reconstitute as directed in the labeling and proceed as directed in § 436.202 of this chapter.

(5) *Identity*. The high-performance liquid chromatogram of the sample determined as directed in paragraph (b)(1) of this section compares qualitatively to that of the cefuroxime axetil working standard.

Dated: May 9, 1995.

Murray M. Lumpkin,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 95–12604 Filed 5–22–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 522

[Docket No. 95N–0096]

Implantation or Injectable Dosage Form New Animal Drugs; Guaifenesin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of the animal drug name from glyceryl guaiacolate to guaifenesin. This amendment is an administrative change to redesignate glyceryl guaiacolate products as guaifenesin products.

EFFECTIVE DATE: May 23, 1995.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1722.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 30, 1972 (37 FR 12936) and November 5, 1976 (41 FR 48732), FDA published final rules which reflected approval of injectable glyceryl guaiacolate products. In the **Federal Register** of December 10, 1984 (49 FR 48038), FDA published a final rule which reflected approval of a guaifenesin powder for injection. Guaifenesin is the newer chemical name for glyceryl guaiacolate. At the time of the December 10, 1984, approval, the prior approvals were not amended to reflect the newer chemical name. FDA is amending the regulations in part 522 (21 CFR part 522) to reflect the newer chemical name by removing §§ 522.1060, 522.1060a, and 522.1060b; by adding a new sponsor to § 522.1085; and by adding new § 522.1086 *Guaifenesin injection*.

FDA has determined under 21 CFR 25.24(a)(9) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.1060 [Removed]

2. Section 522.1060 *Glyceryl guaiacolate implantation or injectable dosage forms* is removed.

§ 522.1060a [Removed]

3. Section 522.1060a *Glyceryl guaiacolate sterile powder* is removed.

§ 522.1060b [Removed]

4. Section 522.1060b *Glyceryl guaiacolate injection* is removed.

§ 522.1085 [Amended]

5. Section 522.1085 *Guaifenesin sterile powder* is amended in paragraph (b) by removing ''000031'' and adding in its place the phrase ''000031 and 037990''.

6. New § 522.1086 is added to read as follows:

§ 522.1086 Guaifenesin injection.

(a) *Specifications*. Each milliliter of sterile aqueous solution contains 50 milligrams of guaifenesin and 50 milligrams of dextrose.

(b) *Sponsor*. See No. 037990 in § 510.600(c) of this chapter.

(c) *Conditions of use*. (1) The drug is used intravenously in horses as a skeletal muscle relaxant.

(2) Administer rapidly at a dosage of 1 milliliter per pound of body weight.

(3) No to be used in horses intended for food.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: May 5, 1995.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 95–12506 Filed 5–22–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF EDUCATION

34 CFR Parts 78, 208, 215, 230, 232, 233, 234, 236, 238, 241, 245, 246, 247, 250, 251, 252, 253, 254, 255, 256, 257, 258, 282, 298, 346, 347, 354, 362, 372, 374, 405, 407, 408, 409, 414, 416, 417, 418, 419, 422, 423, 424, 445, 462, 463, 471, 473, 474, 475, 476, 500, 501, 520, 524, 525, 526, 537, 538, 548, 555, 561, 573, 574, 581, 629, 665, 671, 673, 691, 698, 700, 706, 707, 708, 722, 750, 755, 757, 758, 760, 761, 762, 763, 768, 773, 778, 779, and 790

Removal of Regulations

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Code of Federal Regulations (CFR) to remove unnecessary and obsolete regulations. As a result of new legislation, absence of funding, and review in accordance with the President's regulatory reinvention initiative, the Secretary has determined

that these regulations are no longer needed. The Secretary takes this action to remove the regulations from the CFR.

EFFECTIVE DATE: These regulations are effective June 22, 1995.

FOR FURTHER INFORMATION CONTACT: Kenneth C. Depew, U.S. Department of Education, Room 5112, FB-10, 600 Independence Avenue, SW, Washington, DC 20202–2241. Telephone: (202) 401–8300. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: President Clinton's memorandum of March 4, 1995, titled ''Regulatory Reinvention Initiative'' directed heads of departments and agencies to review all existing regulations to eliminate those that are outdated and modify others to increase flexibility and reduce burden. The Department has undertaken a thorough review of its existing regulations and has identified the regulations removed by this document as obsolete and unnecessary.

The regulations being removed are no longer necessary to administer the program, have been superseded by new legislation, or were issued to implement a program that is no longer funded. To the extent that regulations are needed to implement new legislation, they will be issued separately from this document. Any determination to issue new regulations will be carefully considered to ensure that it is consistent with the President's regulatory reform efforts and the principles in Executive Order 12866.

In consultation with customers and partners, the Department is also reviewing its other existing regulations thoroughly at this time, and those regulations will be amended as appropriate to eliminate or revise outdated provisions, reduce burden, or increase flexibility. Amendments that can be accomplished without statutory changes are expected to be published for public comment as soon as the reviews are completed and regulatory changes are drafted. For example, the notice of proposed rulemaking published on May 1, 1995 (60 FR 21400), implementing amendments to the Title I—Helping Disadvantaged Children Meet High Standards program under the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994, includes the removal of four additional parts. In addition, the Secretary will seek appropriate statutory changes if legislative authority is required in order to achieve regulatory reform.

Waiver of Proposed Rulemaking

In accordance with section 437 of the General Education Provisions Act (20 U.S.C. 1232) and the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, these regulations merely reflect statutory changes and remove unnecessary and obsolete regulatory provisions. Removal of the regulations does not establish or affect substantive policy. Therefore, the Secretary has determined, pursuant to 5 U.S.C. 553(b)(B), that public comment is unnecessary and contrary to the public interest.

Paperwork Reduction Act of 1980

These regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

Based on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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Administrative practice and procedure, Education Appeal Board, Grant programs—education.

34 CFR Part 208

Elementary and secondary education, Grant programs—education, Teachers.

34 CFR Part 215

Education of disadvantaged, Elementary and secondary education, Grant programs—education.

34 CFR Part 230

Drug abuse, Grant programs—education, Hawaiian natives.

34 CFR Part 232

Drug abuse, Elementary and secondary education, Grant programs—education.

34 CFR Part 233

Drug abuse, Elementary and secondary education, Grant programs—education, Teachers.

34 CFR Part 234

Drug abuse, Colleges and universities, Elementary and secondary education, Grant programs—education.

34 CFR Part 236

Drug abuse, Elementary and secondary education, Grant programs—education.

34 CFR Part 238

Drug abuse, Elementary and secondary education, Grant programs—education.

34 CFR Part 241

Elementary and secondary education, Grant programs—education, Law.

34 CFR Part 245

Grant programs—education, Equal educational opportunity, Women.

34 CFR Part 246

Grant programs—education, Equal educational opportunity, Women.

34 CFR Part 247

Grant programs—education, Equal educational opportunity, Women.

34 CFR Part 250

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34 CFR Part 251

Elementary and secondary education, Grant programs—education, Indians—education.

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Elementary and secondary education, Grant programs—education, Indians—education.

34 CFR Part 254

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Adult education, Elementary and secondary education, Grant programs—education, Indians—education.

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34 CFR Part 298

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34 CFR Part 346

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34 CFR Part 347

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34 CFR Part 372

Grant programs—education, Vocational rehabilitation.

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34 CFR Part 408

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34 CFR Part 445

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34 CFR Part 471

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Adult education, Grant programs—education, Manpower training programs, Small businesses.

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Adult education, Grant programs—education.

34 CFR Part 500

Bilingual education, Grant programs—education.

34 CFR Part 501

Bilingual education, Grant programs—education.

34 CFR Part 520

Bilingual education, Equal educational opportunity, Grant programs—education.

34 CFR Part 524

Bilingual education, Grant programs—education.

34 CFR Part 525

Bilingual education, Grant programs—education.

34 CFR Part 526

Bilingual education, Grant programs—education.

34 CFR Part 537

Bilingual education, Grant programs—education.

34 CFR Part 538

Bilingual education, Education of disadvantaged, Grant programs—education, Refugees.

34 CFR Part 548

Bilingual education, Grant programs—education.

34 CFR Part 555

Bilingual education, Grant programs—education.

34 CFR Part 561

Bilingual education, Grant programs—education.

34 CFR Part 573

Bilingual education, Colleges and universities, Grant programs—education.

34 CFR Part 574

Bilingual education, Grant programs—education.

34 CFR Part 581

Bilingual education, Elementary and secondary education, Grant programs—education.

34 CFR Part 629

Adult education, Colleges and universities, Grant programs—education, Veterans.

34 CFR Part 665

Colleges and universities, Grant programs—education, Teachers.

34 CFR Part 671

Colleges and universities, Grant programs—education, Libraries.

34 CFR Part 673

Colleges and universities, Grant programs—education, Loan programs.

34 CFR Part 691

Colleges and universities, Scholarships and fellowships, Student aid.

34 CFR Part 698

Colleges and universities, Civil rights, Crime, Grant programs—education.

34 CFR Part 700

Educational research, Grant programs—education.

34 CFR Part 706

Educational research, Grant programs—education.

34 CFR Part 707

Educational research, Grant programs—education.

34 CFR Part 708

Educational research, Grant programs—education.

34 CFR Part 722

Business and industry, Colleges and universities, Education of disadvantaged, Elementary and secondary education, Grant programs—education.

34 CFR Part 750

Educational research, Elementary and secondary education, Grant programs—education.

34 CFR Part 755

Educational research, Elementary and secondary education, Grant programs—education.

34 CFR Part 757

Educational research, Elementary and secondary education, Grant programs—education.

34 CFR Part 758

Educational research, Elementary and secondary education, Grant programs—education.

34 CFR Part 760

Education of disadvantaged, Educational research, Elementary and secondary education, Grant programs—education.

34 CFR Part 761

Educational research, Equal educational opportunity, Grant programs—education.

34 CFR Part 762

Educational research, Scholarships and fellowships.

34 CFR Part 763

Drug abuse, Elementary and secondary education, Grant programs-education.

34 CFR Part 768

Grant programs—education, Libraries.

34 CFR Part 773

Colleges and universities, Educational research, Grant programs—education, Libraries.

34 CFR Part 778

Educational research, Grant programs—education, Libraries.

34 CFR Part 779

Grant programs—education, Libraries.

34 CFR Part 790

Grant programs—education, Teachers.

Dated: May 19, 1995.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance numbers do not apply.)

For the reasons set forth in the preamble, under the authority at 20 U.S.C. 1221e–3, the Secretary of Education amends Title 34 of the Code of Federal Regulations by removing Parts 78, 208, 215, 230, 232, 233, 234, 236, 238, 241, 245, 246, 247, 250, 251, 252, 253, 254, 255, 256, 257, 258, 282, 298, 346, 347, 354, 362, 372, 374, 405, 407, 408, 409, 414, 416, 417, 418, 419, 422, 423, 424, 445, 462, 463, 471, 473, 474, 475, 476, 500, 501, 520, 524, 525, 526, 537, 538, 548, 555, 561, 573, 574, 581, 629, 665, 671, 673, 691, 698, 700, 706, 707, 708, 722, 750, 755, 757, 758, 760, 761, 762, 763, 768, 773, 778, 779, and 790, and by removing the reserved designation for parts 404 and 420.

[FR Doc. 95–12732 Filed 5–19–95; 1:54 pm]

BILLING CODE 4000–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7617]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director certifies that this rule will not have a significant

economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program:			
Pennsylvania: McConnellsburg, borough of, Fulton County.	422701	Apr. 7, 1995.	
Montana: Roosevelt County, unincorporated areas	300166	Apr. 7, 1995	Dec. 4, 1979.
Illinois: Nauvoo, city of, Hancock County	170767	Apr. 7, 1995	Oct. 10, 1975.
Alaska: Fort Yukon, city of, unorganized borough	020045	Apr. 24, 1995.	
North Dakota: Minnewaukan, city of, Benson County	380240	.....do.	
Georgia: Sumter County, unincorporated areas	130521	Apr. 26, 1995.	
Michigan: Millington, township of, Tuscola County	260929	.....do.	
Texas:			
Burton, city of, Washington County	480649	.....do	Dec. 20, 1974.
Ector, city of, Fannin County	480809	.....do	July 11, 1975.
Trinity County, unincorporated areas	481031	.....do	May 2, 1980.
South Carolina: Sellers, town of, Marion County	450145	.....do	May 2, 1980.
Reinstatements:			
New York: Cherry Creek, town of, Chautauqua County	361107	July 8, 1980 Emerg; July 2, 1982 Reg; Nov. 4, 1992, Susp; Apr. 28, 1995, Rein.	July 2, 1982.
Pennsylvania: Huston, township of, Blair County	422332	Feb. 6, 1976, Emerg; Sept. 30, 1980, Reg; June 16, 1993, Susp; Apr. 28, 1995, Rein.	Sept. 30, 1980.
Regular Program Conversions:			
Region I:			
Maine: Phillips, town of, Franklin County	230060	Apr. 17, 1995 Suspension Withdrawn	Apr. 17, 1995.
Region III:			
Pennsylvania: Springhill, township of, Fayette County	421639	.....do.	
Region IV:			
Mississippi: Coahoma County, unincorporated areas	280038	.....do	Do.
Tennessee: Ripley, town of, Lauderdale County	470100	.....do	Do.
Region V:			
Minnesota:			
Dover, city of, Olmsted County	270566	.....do	Do.
Eyota, city of, Olmsted County	270329	.....do	Do.
Oronoco, city of, Olmsted County	270330	.....do	Do.
Stewartville, city of, Olmsted County	270332	.....do	Do.
Ohio: Richwood, village of, Union County	390549	.....do	Do.
Region VII:			
Missouri:			
Clarkton, city of, Dunklin County	290126	.....do	Do.
Independence, city of, Clay and Jackson Counties	290172	.....Do.	Do

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Issued: May 16, 1995.

Frank H. Thomas,

Deputy Associate Director, Mitigation Directorate.

[FR Doc. 95–12575 Filed 5–22–95; 8:45 am]

BILLING CODE 6718–21–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 501, 502, 503, 504, 514, 515, 550, 552, 560, 572, 580, 581, 582, and 583

[Docket No. 95–01]

Filing of Tariffs by Marine Terminal Operators, Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce; Publishing and Filing of Tariffs by Common Carriers in the Foreign Commerce of the United States; Service Contracts

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission (''Commission'') is removing its rules relating to Filing of Tariffs by Marine Terminal Operators; Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce; Publishing and Filing of Tariffs by Common Carriers in the Foreign Commerce of the United States; and Service Contracts. These regulations contain the guidelines, standards, and procedures for marine terminal operators (''MTO's'') and common carriers by water to file and publish their tariffs and/or service contract essential terms with the Commission in paper format. With the full scale implementation of the Commission's Automated Tariff Filing and Information System (''ATFI''), which now requires tariffs and service contracts to be filed electronically, these regulations are no longer necessary. The Commission is also amending various other regulations to delete references to removed regulations and add replacement citations.

EFFECTIVE DATE: May 23, 1995.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573, (202) 523–5796.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission initiated this proceeding by publishing a Notice of Proposed Rulemaking (''NPR'') in the **Federal Register** on January 12, 1995. The NPR solicited comments on a proposal to remove certain regulations that governed the filing of tariffs and service contracts: 46 CFR Part 515, Filing of Tariffs by Marine Terminal Operators; 46 CFR Part 550, Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce; 46 CFR Part 580, Publishing and Filing of Tariffs by Common Carriers in the Foreign Commerce of the United States; and 46 CFR Part 581, Service Contracts.

The Commission is removing these parts because ATFI is now fully implemented and all MTO's and common carriers are now required to file their tariffs and service contracts in electronic format. (See Public Law 102–582, the High Seas Driftnet Fisheries Enforcement Act, section 502 of which directs carriers to ''file electronically with the Commission all tariffs and all essential terms of service contracts required to be filed'' by the 1916, 1933, or 1984 Acts; see also, 46 CFR Part 514).

The Commission did not receive any comments on the proposal to remove these regulations. The Commission is therefore adopting the proposed rule as its final rule; and in addition, the Commission is amending Parts 501, 502, 503, 504, 514, 552, 560, 572, 582, and 583 to delete references to the above removed parts and to add replacement citations. Also, 46 CFR § 514.15 is amended by removing paragraph (b)(23)(ii) which erroneously refers to Part 525 which was previously removed by the Commission. These additional changes were not part of the NPR and are not substantive changes.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this final rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental organizations. ''The criteria contained in this section requires the agency head to examine both the degree of impact as well as the dispersion of that impact.'' S. Rep. No. 878, 96th Cong., 2d Sess. 14 (1980) reprinted at 1980 U.S. Code Cong. and Admin. News, p. 2788 at 2801. The Commission does not believe that the removal of Parts 515, 550, 580 and 581 under the circumstances described above will result in an impact upon a substantial number of small entities.

This final rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended. Therefore, OMB review is not required.

List of Subjects

46 CFR Part 501

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions (Government agencies), Seals and insignia.

46 CFR Part 502

Administrative practice and procedure, Claims, Equal access to justice, Investigations, Lawyers, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 503

Classified information, Freedom of information, Privacy, Sunshine Act.

46 CFR Part 504

Environmental impact statements, Reporting and recordkeeping requirements.

46 CFR Part 514

Freight, Harbors, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 515

Freight, Harbors, Reporting and recordkeeping requirements, Warehouses.

46 CFR Part 550

Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 552

Maritime carriers, Reporting and recordkeeping requirements, Uniform System of Accounts.

46 CFR Part 560

Administrative practice and procedure, Antitrust, Freight, Maritime carriers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 572

Administrative practice and procedure, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 580

Freight, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 581

Freight, Maritime carriers, Reporting and recordkeeping requirements.

46 CFR Part 582

Maritime carriers, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 583

Freight, Maritime carriers, Reporting and recordkeeping requirements, Surety bonds.

Therefore, pursuant to 5 U.S.C. 553; sections 17 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 816, 841(a)); sections 2, 3, 4, and 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C. app. 843, 844, 845, 845(a), 845(b), 847); sections 8, 10, and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1707, 1709, 1716); chapter IV of title 46 of the Code of Federal Regulations is amended as follows:

PART 515—[REMOVED]

1. Part 515 is removed.

PART 550—[REMOVED]

2. Part 550 is removed.

PART 580—[REMOVED]

3. Part 580 is removed.

PART 581—[REMOVED]

4. Part 581 is removed.

PART 501—THE FEDERAL MARITIME COMMISSION—GENERAL

5. The authority citation for Part 501 continues to read as follows:

Authority: 5 U.S.C. 551–557, 701–706, 2903 and 6304; 31 U.S.C. 3721; 41 U.S.C. 414 and 418; 44 U.S.C. 501–520 and 3501–3520; 46 U.S.C. app. 801–848, 876, 1111, and 1701–1720; Reorganization Plan No. 7 of 1961, 26 FR 7315, August 12, 1961; Pub. L. 89–56, 79 Stat. 195; 5 CFR Part 2638.

6. Section 501.5 is amended by revising the second sentence of paragraph (h) introductory text to read as follows:

§ 501.5 Functions of the organizational components of the Federal Maritime Commission.

* * * * *

(h) * * * These programs carry out provisions of the Shipping Act, 1933; the Shipping Act of 1984; and Pub. L. 89–777, as implemented under Parts 510, 514, 540, 552, 582 and 583 of this chapter. * * *

* * * * *

7. Section 501.23 is revised to read as follows:

§ 501.23 Delegation to the General Counsel.

The authority listed in this section is delegated to the General Counsel: Authority to classify carriers as state-controlled carriers within the meaning of section 3(8) of the Shipping Act of 1984, except where a carrier submits a rebuttal statement pursuant to § 514.4(c)(2)(ii) of this chapter.

8. Section 501.27 is amended by revising paragraphs (i), (j), and (k) to read as follows:

§ 501.27 Delegation to and redelegation by the Director, Bureau of Tariffs, Certification and Licensing.

* * * * *

(i) Authority contained in § 514.7(j) of this chapter to notify filing parties of the Commission's intent to reject a service contract and/or statement of essential terms and subsequently reject and return such contracts.

(j) Authority contained in part 514 of this chapter to approve, but not deny, requests for permission to correct clerical or administrative errors in the essential terms of filed service contracts.

(k) Authority contained in parts 514 and 583 of this chapter to cancel the tariffs of NVOCCs who fail to file a surety bond, guaranty or insurance policy or, if required, designate an agent for receipt of process, or whose surety bond or agent designation is canceled.

* * * * *

PART 502—RULES OF PRACTICE AND PROCEDURE

9. The authority citation for Part 502 continues to read as follows:

Authority: 5 U.S.C. 504, 551, 552, 553, 556(c), 559, 561–569, 571–596; 12 U.S.C. 1141j(a); 18 U.S.C. 207; 26 U.S.C. 501(c)(3); 28 U.S.C. 2112(a); 31 U.S.C. 9701; 46 U.S.C. app. 817, 820, 826, 841a, 1114(b), 1705, 1707–1711, 1713–1716; E.O. 11222 of May 8, 1965 (30 FR 6469); 21 U.S.C. 853a; and Pub. L. 88–777 (46 U.S.C. app. 817d, 817e).

10. Section 502.67 is amended by revising the first sentence of paragraph (b)(2) to read as follows:

§ 502.67 Proceedings under section 3(a) of the Intercoastal Shipping Act, 1933.

* * * * *

(b) * * *

(2) Protests against across-the-board increases, as defined in § 514.2 of this chapter, and against other proposed changes in tariffs filed on at least thirty (30) days' notice, shall be filed and served no later than twenty (20) days prior to the proposed effective date of the change. * * *

* * * * *

PART 503—PUBLIC INFORMATION

11. The authority citation for Part 503 continues to read as follows:

Authority: 5 U.S.C. 552, 552a, 552b, 553; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557, 3 CFR 1982 Comp., p. 167.

12. Section 503.32 is amended by revising paragraph (d) to read as follows:

§ 503.32 Records generally available.

* * * * *

(d) Terminal tariffs filed pursuant to part 514 of this chapter.

* * * * *

PART 504—PROCEDURES FOR ENVIRONMENTAL POLICY ANALYSIS

13. The authority citation for Part 504 continues to read as follows:

Authority: 5 U.S.C. 552, 553; secs. 21 and 43 of the Shipping Act, 1916 (46 U.S.C. app. 820 and 841a); secs. 13 and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1712 and 1716); sec. 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(b) and sec. 382(b) of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6362).

14. Section 504.4 is amended by removing the semicolon at the end of paragraphs (a)(2), (a)(4), and (a)(5) and adding a period in its place and by revising paragraphs (a)(6) and (a)(7) to read as follows:

§ 504.4 Categorical exclusions.

* * * * *

(a) * * *

(6) Consideration of special permission applications filed pursuant to 46 CFR part 514.

(7) Receipt of terminal tariffs pursuant to 46 CFR part 514.

* * * * *

PART 514—TARIFFS AND SERVICE CONTRACTS

15. The authority citation for Part 514 continues to read as follows:

Authority: 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721 and 1722; and sec. 2(b) of Pub. L. 101–92, 103 Stat. 601.

16. Section 514.1 is amended by revising the first sentence of paragraph (c)(1)(iii)(E) to read as follows:

§ 514.1 Scope, purpose, requirements, penalties and fees.

* * * * *

(c) * * *

(1) * * *

(iii) * * *

(E) The tariff(s) of any common carrier who files an anti-rebate certification after December 31 but before the end of the forty-five (45) days' notice period will not be canceled; however, the common carrier will be subject to civil penalties as provided in parts 502 and 582 of this chapter. * * *

* * * * *

§ 514.15 [Amended]

17. Section 514.15 is amended by removing and reserving paragraph (b)(23)(ii).

PART 552—FINANCIAL REPORTS OF VESSEL OPERATING COMMON CARRIERS BY WATER IN THE DOMESTIC OFFSHORE TRADES

18. The authority citation for Part 552 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 817(a), 820, 841a, 843, 844, 845, 845a and 847.

19. Section 552.1 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 552.1 Purpose.

(a) * * * Compliance is mandatory and failure to file the reports required under this part may result in denial of rate increases or rejection of tariff line items implementing rate changes or penalties of up to $100 for each day of such default (46 U.S.C. app. 820(a)).

* * * * *

20. Section 552.5 is amended by revising paragraphs (b) and (c) to read as follows:

§ 552.5 Definitions.

* * * * *

(b) *The service* means those voyages and/or terminal facilities in which cargo subject to the Commission's regulation under part 514 of this chapter is either carried or handled.

(c) *The trade* means that part of the Service subject to the Commission's regulation under part 514 of this chapter, more extensively defined under *Domestic offshore trade* in paragraph (f) of this section.

* * * * *

PART 560—AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916

21. The authority citation for Part 560 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 814, 817(a), 820, 821, 833a, and 841a.

22. Section 560.308 is amended by revising the first sentence of paragraph (a) introductory text to read as follows:

§ 560.308 Marine terminal services agreements—exemption.

(a) *Marine terminal services agreement* means an agreement, contract, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and a common carrier by water in interstate commerce that applies to marine terminal services as defined in 46 CFR 514.2 (including any marine terminal facilities, as defined in 46 CFR 514.2, which may be provided incidentally to such marine terminal services) that are provided to and paid for by a common carrier by water in interstate commerce. * * *

* * * * *

23. Section 560.702 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 560.702 Filing of minutes—including shippers' requests and complaints.

* * * * *

(c) * * * This reporting exemption does not apply to discussions involving general rate policy, general rate changes, the opening or closing of rates, or discussions involving items, that if adopted, would be required to be published in other tariff sections as specified in Part 514 of this chapter.

* * * * *

PART 572—AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

24. The authority citation for Part 572 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1701–1707, 1709–1710, 1712 and 1714–1717.

25. Section 572.310 is amended by revising the first sentence of paragraph (a) introductory text to read as follows:

§ 572.310 Marine terminal services agreements— exemption

(a) *Marine terminal services agreement* means an agreement, contract, understanding, arrangement or association, written or oral (including any modification, cancellation or appendix) between a marine terminal operator and an ocean common carrier that applies to marine terminal services as defined in 46 CFR 514.2 (including any marine terminal facilities, as defined in 46 CFR 514.2, which may be provided incidentally to such marine terminal services) that are provided to and paid for by an ocean common carrier. * * *

* * * * *

26. Section 572.801 is amended by revising the last sentence of paragraph (b)(1) to read as follows:

§ 572.801 Independent action.

* * * * *

(b) (1) * * * A conference agreement shall not require or permit a conference member to give more than 10 calendar days' notice to the conference, except that in the case of a new or increased rate the notice period shall conform to the requirements of § 514.9(b) of this chapter.

* * * * *

PART 582—CERTIFICATION OF COMPANY POLICIES AND EFFORTS TO COMBAT REBATING IN THE FOREIGN COMMERCE OF THE UNITED STATES

27. The authority citation for Part 582 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701, 1702, 1707, 1709, 1712, and 1714–1716.

28. Section 582.1 is amended by revising the third sentence of paragraph (b) to read as follows:

§ 582.1 Scope.

* * * * *

(b) * * * Failure of a common carrier to file an anti-rebate certification and publish notice of certification in its tariffs as provided by this part and part 514 of this chapter will result in tariff cancellation effective forty-five (45) days after notice, as provided in § 514.1(c)(1)(iii)(C) of this chapter or, if an initial tariff filing, rejection. * * *

PART 583—SURETY FOR NON-VESSEL-OPERATING COMMON CARRIERS

29. The authority citation for Part 583 continues to read as follows:

Authority: 5 U.S.C. 553; 31 U.S.C. 9701; 46 U.S.C. app. 1702, 1707, 1709, 1710–1712, 1716 and 1721.

30. Section 583.5 is amended by revising paragraphs (d) and (e) to read as follows:

§ 583.5 Resident agent.

* * * * *

(d) Designations of resident agent under paragraphs (a) and (b) of this section and provisions relating to service of process under paragraph (c) of this section shall be published in the NVOCC's tariff in accordance with § 514.15(b)(24) of this chapter.

(e) Every non-vessel-operating common carrier using a group or association of NVOCCs to cover all or part of its financial responsibility requirement under § 583.4 shall publish the name and address of the group or association's resident agent for receipt of judicial and administrative process, including subpoenas, in its tariff in accordance with § 514.15(b)(24)(ii) of this chapter.

31. Section 583.7 is amended by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 583.7 Proof of Compliance.

* * * * *

(b) * * *

(2) Reviewing a copy of the tariff rule published by the NVOCC and in effect under § 514.15(b)(24) of this chapter; or

(3) Any other appropriate procedure, provided that such procedure is set forth in the carrier's tariff of general applicability as required by § 514.15(b)(25) of this chapter.

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 95–12511 Filed 5–22–95; 8:45 am]

BILLING CODE 6730–01–W

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107

[Docket No. HM–208B, Amdt. No. 107–34]

RIN 2137–AC58

Hazardous Materials Transportation Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: RSPA is maintaining the current annual registration fee of $300 (which includes a $50 processing fee), for persons engaged in transporting or offering for transportation certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. In addition, this final rule adopts two changes to the statutorily mandated registration and fee assessment program. Applicability of the registration requirement to materials that are extremely toxic by inhalation (Hazard Zone A) is expanded to include materials in a hazard class or division other than Division 2.3 or Division 6.1. RSPA is also adopting an exception from the registration requirement for foreign offerors, as authorized by the amended statute.

EFFECTIVE DATE: July 1, 1996.

FOR FURTHER INFORMATION CONTACT: David Donaldson, Office of Hazardous Materials Planning and Analysis, (202) 366–4484, or Joan McIntyre, Office of Hazardous Materials Standards, (202) 366–4488, RSPA, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 1992, RSPA published a final rule under Docket HM–208 [57 FR 30620], establishing a national registration and fee assessment program, as required by 49 U.S.C. 5108 *et seq.* (Federal hazardous materials transportation law), for persons engaged in transporting or offering for transportation certain categories and quantities of hazardous materials in intrastate, interstate, and foreign commerce. Persons subject to the registration program are required to file annually a registration statement with RSPA and pay a total annual fee of $300, of which $250 is used to fund the Hazardous Materials Public Sector Training and Planning Grants Program, and $50 is used to offset processing costs. The registration fee of $250 is the minimum amount permitted under the statute. Grants to States and Indian tribes are expected to total more than $20 million through 1995, the third year that this program has been in effect. Average annual funding levels ($6.3 million) however have been below the congressionally authorized level of $18.975 million per year.

On January 30, 1995, RSPA issued a notice of proposed rulemaking (NPRM) (Docket HM–208B; 60 FR 5822) that proposed changes to increase the annual registration fee for certain persons. The NPRM distinguished between large, medium, and small entities that conduct operations in one or more of the five categories for which registration is required. RSPA proposed a four-level fee structure that considered the comparative risks that may be posed by the types and quantities of transportation activities covered by the registration requirement. The annual fee, under the graduated fee schedule proposed by RSPA, would be determined on the basis of the registrant's transportation activity during the prior calendar year: large ($5,050), medium ($2,550), small ($500), and low ($300).

II. Graduated Fee Schedule

More than 350 comments were received in response to the NPRM. Commenters opposing the increased fee schedule generally claimed that improved compliance efforts would eliminate the need to increase the fees to fully fund the grant program. Twelve commenters who supported the proposal to increased fees representing several States and local emergency response organizations that benefit directly from the grants program indicated a need for increased funding for grants. Approximately 100 inquiries were forwarded by Members of Congress on behalf of their constituents. Many commenters raised several complex issues and suggested various funding alternatives.

As indicated in the notice of proposed rulemaking, an Industry Working Group (IWG), facilitated by the Hazardous Materials Advisory Council, and reflecting the perspective of many persons subject to the registration and fee collection requirements, provided recommendations on how the registration and fee collection requirement could be improved. Those recommendations contain the basic themes that are reflected in many of the 350 comments. In addition, the IWG offered numerous suggestions on how RSPA may be able to more effectively communicate registration requirements in non-technical language that the regulated community can more easily understand. RSPA has revised its brochure describing the registration program to reflect many of changes suggested by the IWG.

RSPA received comments on behalf of the Alliance for Uniform Hazmat Transportation Procedures (Alliance), the National Conference of State Legislatures (NCSL), and the National Association of SARA Title III Officials. These commenters, reflecting the perspective of entities that benefit from the State and Indian tribe grant program funded by the fee, also generally opposed RSPA's proposed graduated fee structure. For example, NCSL believes that because RSPA has not generated, collected, or disbursed what NCSL considers as ''modestly authorized levels,'' the purpose of the Federal program has been eroded. NCSL strongly recommended that RSPA reevaluate the Federal registration program with an eye toward elimination. The Alliance opposed the fee schedule and believes that RSPA's actions will create obstacles in the registration of motor carriers by States and that implementation of the proposed fee schedule is premature.

Based on the comments RSPA received in response to the NPRM, including the various alternatives and recommendations presented, RSPA has decided not to adopt the current proposal to increase the registration fees at this time. Regulations regarding registration (Subpart G to 49 CFR Part 107) are retained. Therefore, the annual registration fee remains at $300. This decision will maintain the current levels of funding to the States and Indian

tribes for the Hazardous Materials Public Sector Training and Planning Grants Program.

RSPA plans to assess fully the registration and grants program before considering further action regarding an increase in the fee. RSPA will work with its Federal, State, and local partners, industry and labor, and environmental and public interest groups, to examine the costs and benefits of these programs. One aspect of this assessment may include an evaluation of combining several legislative mandates into a State-administered uniform program for permits and registration. RSPA's outreach efforts on this matter may include public meetings and workshops, as well as participation in meetings and seminars sponsored by others. RSPA will also continue to promote maximum compliance with the current registration program.

III. Foreign Offerors

Foreign offerors are included in the definition of ''persons'' who are subject to the registration requirement to the extent that they engage in any of the activities covered by the registration program. However, because of the potential for reciprocal actions by other governments, and significant problems associated with informing and identifying the parties concerned, RSPA delayed application of the registration requirement to these entities until July 1, 1996. See 49 CFR 107.606(f). Subsequently, section 104 of Public Law 103–311, enacted August 26, 1994, amended 49 U.S.C. 5108(a) by adding a new subparagraph that reads as follows:

(4) The Secretary may waive the filing of a registration statement, or the payment of a fee, required under this subsection, or both, for any person not domiciled in the United States who solely offers hazardous materials for transportation to the United States from a place outside the United States if the country of which such person is a domiciliary does not require persons domiciled in the United States who solely offer hazardous materials for transportation to the foreign country from places in the United States to file registration statements, or to pay fees, for making such an offer.

In this final rule, RSPA makes permanent the exception currently provided in § 107.606(f). However, as proposed in the NPRM, the general exception in § 107.606(a)(6) is limited to persons who offer hazardous materials for transportation to the United States from a foreign country that does not impose a registration statement or fee payment requirement on a person domiciled in the United States who offers hazardous materials for transportation to that country.

In § 107.606(b), RSPA explains that persons domiciled in countries that enforce a registration statement or fee payment requirement must file a registration statement and pay the annual fee upon a positive determination made by RSPA's Associate Administrator for Hazardous Materials Safety, the U.S. Competent Authority, that the other country's requirement is prejudicial to persons domiciled in the United States. The U.S. Competent Authority's determination will be communicated directly to the other country's Competent Authority, and will be published in the **Federal Register**. No later than 60 days following publication in the **Federal Register** of that Competent Authority determination, offerors domiciled in the other country are required to file a registration statement and pay the annual fee. If such an offeror does not register as required, it may not offer a hazardous material for transportation from that country to the United States.

IV. Expanded PIH Registration Requirements

As proposed in § 107.601(c), RSPA is broadening the scope of materials extremely toxic by inhalation covered by the registration requirement, to include every ''material poisonous by inhalation'' (PIH) as defined in 49 CFR 171.8 that meets the criteria for Hazard Zone A (extremely toxic). This change addresses several PIH materials that are listed in the Hazardous Materials Table in 49 CFR 172.101 as a Class 3, Class 8, Division 4.2 or Division 5.1 hazardous material. RSPA believes that this change will not add a substantial number of persons that are required to register.

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is considered a significant regulatory action under section 3(f) of Executive Order 12866 and was reviewed by the Office of Management and Budget. This rule is considered a significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034]. A regulatory evaluation is available for review in the Docket. Because the statute mandates the establishment and collection of fees, the discretionary aspects of this rulemaking are limited to setting the amount of the fee within the statutory range for each person subject to the registration program. The fees are not related to the cost of RSPA's hazardous materials safety programs. The fees to be paid by shippers and carriers of certain hazardous materials in transportation are related to the benefits received by these persons from the sale and transportation of hazardous materials and from emergency response services provided by public sector resources, should an accident or incident occur. The fees are also related to expenses incurred by State, Indian tribal, and local hazardous materials emergency preparedness and response activities.

B. Executive Order 12612

This action has been analyzed in accordance with Executive Order 12612 (''Federalism''). States and local governments are ''persons'' under 49 U.S.C. 5102, but are specifically exempted from the requirement to file a registration statement. The regulations herein have no substantial effects on the States, on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various levels of government. This registration regulation has no preemptive effect. It does not impair the ability of States, local governments or Indian tribes to impose their own fees or registration or permit requirements on intrastate, interstate or foreign offerors or carriers of hazardous materials. Thus, RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

C. Regulatory Flexibility Act

This final rule maintains the minimum fee requirement mandated by statute for shippers and carriers of hazardous materials who are subject to the registration requirement. Therefore, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

Under 49 U.S.C. 5108, the information management requirements of the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*) do not apply to this final rule.

E. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 107

Administrative practice and procedure, Hazardous materials

transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

On the basis of the foregoing, 49 CFR part 107 is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

2. In § 107.601, paragraph (c) is revised to read as follows:

§ 107.601 Applicability.

* * * * *

(c) More than one L (1.06 quarts) per package of a material extremely toxic by inhalation (i.e., ''material poisonous by inhalation,'' as defined in § 171.8 of this chapter, that meets a criteria for ''hazard zone A,'' as specified in §§ 173.116(a) or 173.133(a) of this chapter);

* * * * *

3. Section 107.606 is revised to read as follows:

§ 107.606 Exceptions.

(a) The following are excepted from the requirements of this subpart:

(1) An agency of the Federal government.

(2) A State agency.

(3) An agency of a political subdivision of a State.

(4) An employee of any of those agencies in paragraphs (a)(1) through (a)(3) of this section with respect to the employee's official duties.

(5) A hazmat employee (including, for purposes of this subpart, the owner-operator of a motor vehicle that transports in commerce hazardous materials, if that vehicle at the time of those activities, is leased to a registered motor carrier under a 30-day or longer lease as prescribed in 49 CFR part 1057 or an equivalent contractual agreement).

(6) A person domiciled outside the United States, who offers solely from a location outside the United States, hazardous materials for transportation in commerce, *provided* that the country of which such a person is a domiciliary does not require persons domiciled in the United States, who solely offer hazardous materials for transportation to the foreign country from places in the United States, to file a registration statement or to pay a registration fee.

(b) Upon making a determination that persons domiciled in the United States, who offer hazardous materials for transportation to a foreign country solely from places in the United States, must file registration statements or pay fees to that foreign country, the U.S. Competent Authority will provide notice of such determination directly to the Competent Authority of that foreign country and by publication in the **Federal Register**. Persons who offer hazardous materials for transportation to the United States from that foreign country must file a registration statement and pay the required fee no later than 60 days following publication of the determination in the **Federal Register**.

Issued in Washington, DC on May 18, 1995, under the authority delegated in 49 CFR part 1.

D.K. Sharma,

Administrator, Research and Special Programs Administration.

[FR Doc. 95–12658 Filed 5–19–95; 9:58 am]

BILLING CODE 4910–60–P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 94]

RIN 2127–AF30

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration. (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule allows manufacturers the option of installing a manual device that motorists could use to deactivate the front passenger-side air bag in vehicles in which infant restraints can be used in the front seat only. The affected vehicles are passenger cars and light trucks without rear seats and vehicles with rear seats that are too small to accommodate typical rear-facing infant restraints and convertible infant restraints used in the rear-facing mode (hereafter referred to as ''typical rear-facing infant restraints''). The deactivation device is needed because when rear-facing infant restraints are used in the front seats of dual air bag vehicles, they extend forward to a point near the dashboard where they can be struck by a deploying air bag. Testing has shown this to have the potential for serious injury to infants. The ability to deactivate the passenger air bag will allow parents to safely use rear-facing infant restraints in the front seat of these vehicles. The need for the deactivation device is steadily growing because manufacturers are beginning to install, and soon will be required to install, passenger-side air bags in all passenger cars and light trucks.

DATES: Effective Date: The amendments made in this rule are effective June 22, 1995.

Petition Date: Any petitions for reconsideration must be received by NHTSA no later than June 22, 1995.

ADDRESSES: Any petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Cohen, Chief, Frontal Crash Protection Division, Office of Vehicle Safety Standards, NRM–12, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–2264.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 1994, NHTSA published a notice of proposed rulemaking (NPRM) which proposed to allow manufacturers the option of installing a manual device (hereafter referred to as a ''cutoff device'') that motorists could use to deactivate the front passenger air bag in a vehicle without rear seats for the purpose of allowing them to safely use rear-facing infant restraints in the front seat (59 FR 51158). NHTSA issued the NPRM because one particular type of child restraint, i.e., a rear-facing infant restraint, should not be placed in the front seat of a vehicle equipped with a passenger air bag. This poses a problem because manufacturers are beginning to install, and soon will be required to install, passenger air bags in vehicles.

While NHTSA had taken a number of steps to warn parents of air bag/infant restraint interaction problems, members of the American Automobile Manufacturers Association (AAMA) indicated a need for further action in a meeting with NHTSA on January 24, 1994.[1] AAMA asked for the meeting to explore the possibility of installing an air bag cutoff device to allow rear-facing infant restraints to be placed in air bag-equipped passenger seating positions. AAMA representatives discussed the general concept of an air bag cutoff device, which could be either automatic or manual. However, the representatives emphasized that the industry is not quite ready to install automatic devices because automatic cutoff technology is not yet ready for production. At the meeting, AAMA asked whether

[1] A complete description of various steps NHTSA has taken to address this problem can be found in the October 7 notice.

Standard No. 208 would permit such devices and, if not permitted, whether the agency would consider initiating rulemaking to permit such devices. As explained in the October 7 NPRM, NHTSA decided to propose to allow manufacturers to install a manual cutoff device because of concerns that its warnings about the use of rear facing infant restraints are of little avail when a parent must transport his or her infant in a vehicle that is physically unable to accommodate a child any place other than the front seat.

The October 7 NPRM proposed to allow the use of manual cutoff devices in vehicles with no rear seats, subject to certain conditions. If installed, the device could only be operable by using the ignition key and the device would have to be separate from the ignition switch. Once turned off, the air bag would have to remain off until reactivated using the ignition key. The agency also proposed requiring a yellow warning light that was capable of several levels of brightness and bore the identifying words ''AIR BAG OFF'' to inform vehicle occupants that the passenger side air bag was off. The warning light could not be combined with the vehicle's air bag readiness indicator. The vehicle owner's manual would have to contain complete instructions regarding the operation of the cutoff device, including warnings about the safety consequences of misuse. Finally, the device would only have been allowed for approximately two years to encourage the orderly development and introduction of automatic cutoff devices.

The agency received 15 comments on the October 7 NPRM. Commenters included three automobile manufacturers (Ford, Mazda, and Volvo), GenCorp Aerojet (an equipment manufacturer), Advocates for Highway and Auto Safety (Advocates), the American Academy of Pediatrics (AAP), the AAMA, the Automotive Occupant Restraints Council (AORC), the Insurance Institute for Highway Safety (IIHS), the National Automobile Dealers Association (NADA), SafetyBeltSafe U.S.A., the Wisconsin Department of Transportation (DOT), and three private citizens. In general, all commenters supported the proposal. Automobile manufacturers and the AAMA believed a number of the conditions in the NPRM were too restrictive. Safety groups premised their support on the conditions that NHTSA had proposed placing on manual cutoff devices and on the limited time during which they would be allowed. All of these comments were considered by the agency in formulating this final rule, and the most significant comments are addressed below.

Affected Vehicles

NHTSA proposed to allow, but not require, manual cutoff devices only in passenger cars and light trucks which do not have forward-facing rear seats. NHTSA stated that it did not believe that manual cutoff devices should be allowed in vehicles which can accommodate a rear-facing infant restraint in the rear seat, because, even in vehicles without air bags, NHTSA recommends the rear seat as the optimum location for any child restraint.

Five commenters (Mazda, AAMA, NADA, and the private citizens) asked NHTSA to allow manual cutoff devices in all vehicles, since parents often prefer to place infants in the front seat even when a rear seat is available. Two commenters (Ford and AAMA) said that NHTSA should also allow the manual cutoff device in vehicles with rear seats that are too small to accommodate a rear-facing infant restraint. Two other commenters (Mazda and Advocates) explicitly discussed inadequate rear seats, and one additional commenter (IIHS) implicitly discussed inadequate rear seats. The Wisconsin DOT asked NHTSA to also allow manual cutoff devices in police vehicles. Advocates and IIHS supported the proposal.

With the exception of including vehicles with a rear seat which is too small to accommodate a typical rear-facing infant restraint, NHTSA is not expanding the class of vehicles that are permitted to have a manual cutoff device. NHTSA does not believe that it should allow all vehicles to have a manual cutoff device to accommodate parental preference for placement in the front seat. If any child seat can be placed in a rear seat, that is the safest position.

As explained previously, two commenters (Ford and AAMA) said that NHTSA should also allow the manual cutoff device in vehicles with rear seats that are too small to accommodate a rear-facing infant restraint. One commenter (Advocates) said that NHTSA should not allow the manual cutoff device in such vehicles as a rear-facing infant seat can be accommodated even if the seat is too small for an adult.

In response to these comments, NHTSA examined whether there were vehicles that had inadequate rear seats [2] and thus should be allowed to have a cutoff switch. As stated in the NPRM, NHTSA intended to allow the cutoff switch whenever a rear-facing infant restraint could not be accommodated in the rear seat of a vehicle. NHTSA examined this issue to determine the consistency of that stated intent and its tentative conclusion that the only vehicles in this category were vehicles without rear seats. NHTSA obtained dimensional information on rear seat occupant space and rear-facing infant restraints. After examining rear-facing infant restraint sizes and rear seat geometries, NHTSA concluded that some rear-facing infant restraints will not fit in some vehicles under certain conditions. A complete discussion of NHTSA's research and methodology can be found in a document titled ''Evaluation of Infant Seat Fit in Passenger Cars and Light Trucks'' which NHTSA has placed in the docket for this notice.

Based on the results presented in that document, NHTSA has modified this rule to allow the installation of a cutoff device in any vehicle with less than 720 millimeters between the rearward surface of the front seat back and the forward surface of the rear seat back, measured longitudinally in a horizontal line tangent to the highest point of the rear seat bottom, and with the front seat in its mid-track fore-and-aft adjustment position. NHTSA estimates that this provision will allow approximately 27 percent of all passenger cars to have a cutoff device.

NHTSA considered using alternative dimensions for identifying inadequate rear seats. For example, the agency considered using other front seat adjustment positions. If the agency used the full forward position, fewer vehicles would be classified as having inadequate rear seats. However, that result would be based on an unrealistic position for the front seat. Many adults could not use the front seat comfortably in the full-forward position. Alternatively, the agency could have used the full rear position. That adjustment position would allow the largest adults to sit comfortably in the front seat. However, it would also have increased the number of vehicles classified as having an inadequate rear seat. The mid-track position, which is used for other Standard No. 208 testing, was chosen as a compromise.

The agency also considered alternative values to represent the length of rear-facing infant restraints. The agency selected the average length of the child seats NHTSA measured. By choosing this measurement, the agency is ensuring that the vehicles which do not have a cutoff device for the

[2] By ''inadequate rear seat,'' the agency is referring to seats which do not have sufficient fore-and-aft clearance to accommodate typical rear-facing infant restraints.

passenger side air bag are those that have a rear seat large enough to give parents a fairly wide choice of restraints, including convertible restraints, which will fit in the rear seat.

While police vehicles could use a manual cutoff device to avoid interactions with communications and police equipment, NHTSA is not allowing installation of the device. To keep law enforcement and police equipment manufacturers informed, Ford and General Motors met with groups and associations to prepare them for the installation of passenger side air bags. Ford and General Motors recommend that equipment not be mounted within the air bag deployment area. Many equipment manufacturers now produce smaller, more compact police equipment and mounting devices to facilitate this.

In October 1993, NHTSA, the International Association of Chiefs of Police, and the Law Enforcement Television Network (LETN), in conjunction with Ford and General Motors, conducted a seminar, ''Dual Air Bags: Where Do I Put My Equipment?,'' to explain the deployment area and safety benefits of passenger side air bags. This seminar was videotaped by LETN and broadcast at least 25 times. Additionally, NHTSA duplicated copies of the videotape for dissemination throughout the nation. Because other means are available to avoid air bag/equipment interaction, NHTSA is not allowing the installation of the manual cutoff device in police vehicles.

Phase-Out of Manual Cutoff Devices

In the NPRM, NHTSA tentatively concluded that the installation of manual cutoff devices should not be permitted indefinitely. The agency also tentatively concluded that vehicles with air bags having manual cutoff devices should not be counted toward compliance with the phase-in for air bags. Further, the agency said that manual cutoff devices should be prohibited in all passenger cars manufactured on or after September 1, 1997, and all light trucks manufactured on or after September 1, 1997, and all light trucks manufactured on or after September 1, 1998. These are the dates on which 100 percent compliance is required by 49 U.S.C. 30127. To implement these proposals, NHTSA proposed to amend S4.1.5.1(b)'s definition of an ''inflatable restraint system,'' a term used in the paragraphs relating to the air bag requirements, to state that it does not include an air bag that can be deactivated by a manual cutoff device. NHTSA stated that it believed this several year period would give manufacturers time to develop and introduce automatic cutoff devices.

Five commenters (Ford, Mazda, AAP, AAMA and a private citizen) expressed concern that automatic cutoff devices might not be available before the end of the period in which manual cutoff devices would be allowed. Four commenters (GenCorp, Advocates, AORC, and IIHS) expressed confidence that automatic cutoff devices would be available before the end of this time period.

NHTSA is not extending the time period in which manual cutoff devices would be allowed. First, one of the commenters which expressed confidence that automatic cutoff devices would soon be available was GenCorp, a company which develops such devices. Another, AORC, is an organization whose member companies (equipment manufacturers, some of whom develop such devices) ''are confident that satisfactory automatic solutions will be successfully developed on a timely basis.'' Second, in the discussion of automatic devices in many of the comments, it is clear that the vehicle manufacturers were discussing more sophisticated sensors, i.e., one that would deactivate the air bag in a number of situations, not just when a rear-facing infant seat is present.

Two commenters, AAMA and Ford, asked for confirmation that an LTV with a driver's air bag, and a passenger side air bag with a manual cutoff device would quality for the ''one truck credit'' and the ''1.5 truck credit'' during the phase-in periods for the automatic protection and mandatory air bag requirements. The ''one truck credit'' permits light trucks equipped with an air bag for the driver and a manual lap/shoulder belt for the front passenger to count as one truck towards the phase-in requirements for both automatic protection and mandatory air bags. The ''1.5 truck credit'' permits light trucks equipped with an air bag for the driver and some type of automatic protection for the front passenger to count as 1.5 trucks towards the phase-in requirements for automatic protection only.

With regard to the ''one truck credit,'' these commenters are correct. Since a vehicle with a driver's air bag would qualify for credit as one vehicle toward both the automatic protection requirement and the mandatory air bag requirement with a manual belt system alone, it would also qualify for the credit if equipped with a voluntarily-installed air bag with a manual cutoff device, presuming the vehicle had a manual belt on the passenger side.

With regard to the ''1.5 truck credit'' during the automatic restraint phase-in, NHTSA has decided that a vehicle with a passenger air bag equipped with a manual cutoff device should quality for this credit. While such a system does not provide the equivalent level of automatic protection to the passenger as an air bag without a cutoff device, NHTSA believes that it provides a greater level of occupant protection than a manual lap/shoulder belt alone, and warrants additional credit. No change in the regulatory text is required to allow this credit as the amended definition of ''inflatable restraint'' does not apply to S4.1.2.1(a), the section the passenger seating position must comply with to qualify for the credit.

Means of Activation

NHTSA proposed to require the use of the ignition key to activate the cutoff device. NHTSA believed this requirement would make the device simple and easy to use, but still require conscious thought and deliberate action on the part of the user. In addition, it would also place control of the device in the hands of the driver, thereby minimizing the likelihood of accidental or inappropriate activation.

IIHS said that the device should not be activated by the ignition key, but that NHTSA should require a means to prevent inadvertent activation (i.e., shielded switches). AAMA and Ford asked the agency to delete the word ''only'' to permit ''other ignition keys similar but not identical to the ignition key.'' Ford expressed its believe that alternate means of activation would not be so effective in meeting NHTSA's goals. Mazda stated that it believed it would be sufficient to require a means to prevent inadvertent activations without specifying the use of the ignition key.

After reviewing these comments, NHTSA has decided to retain the requirement that the cutoff device be activated by an ignition key, though not requiring it to be an identical ignition key. NHTSA believes that this addresses IIHS's concern that, if a parent forgot to turn off the air bag prior to starting the car, they would be unlikely to turn off the car to deactivate the air bag, leaving an infant at risk if the air bag deployed. NHTSA does not believe that Mazda's suggestion is appropriate, since there is no objective means of determining that inadvertent activation is not likely.

As explained in AAMA's comment, the use of the identical ignition key would require cutoff devices ''to be equipped with lock tumblers and manufactured and stocked in the many key combinations used to deter vehicle

theft.'' AAMA believed this would increase the risk that the driver would be unable to deactivate the air bag, either because non-matching lock tumblers were installed at the factory, or because the ignition lock was replaced with a non-matching key cylinder. Deleting the word ''only'' from the regulatory text will allow manufacturers to install a lock on the cutoff device which has fewer tumblers than the locks used in ignitions. While the ignition key will operate both the ignition and the cutoff device, manufacturers will also be able to provide a separate key which operated only the cutoff device.

Air Bag Reactivation

NHTSA proposed to require that manual cutoff devices be designed so that, once the cutoff device has been used to deactivate the air bag, the air bag will remain deactivated until it is manually reactivated by means of the cutoff device. NHTSA requested comments on whether it should, in the alternative, require that the air bag be automatically reactivated when the vehicle is turned off. NHTSA explained that its ultimate decision would be based on weighing the relative risks to infants who might be placed in the front seat when the air bag is activated against the risks to adults who might ride in the passenger seat while the air bag is not activated.

In its preliminary estimate of those relative risks, the agency estimated that 1,050 air bag deployments a year will occur in pickup trucks and two-seater vehicles when a front passenger seat is occupied by an infant in a rear-facing infant seat. The level of the injuries resulting from these deployments are uncertain, but may well be severe. Conversely, the agency estimated that failure to reactivate the air bag for the benefit of non-infant passengers, would result in approximately 3 occupants who are at least one year old receiving AIS 2–5 (survivable) injuries. In addition, 1–3 fatalities and 23–32 additional injuries could occur each year as a result of deliberate misuse. Based on these estimates, the agency believed that the number of infants who would avoid potentially serious injury far exceeds the number of non-infants who might be injured.

Five commenters (Ford, Volvo, AAP, AAMA, and IIHS) agreed with NHTSA's proposal. Two commenters (Advocates and AORC) stated that NHTSA should require automatic reactivation of the air bag. NADA suggested that NHTSA could require automatic reactivation if the cutoff device did not incorporate a warning light.

NHTSA has decided to adopt the manual reactivation requirement. NHTSA believes that all air bags should be reactivated in the same way. No commenter provided specific data to refute the analysis NHTSA made in the NPRM which resulted in the tentative conclusion to propose manual reactivation. Adult passengers will be able to see the warning light, and will be informed if the air bag is not activated. In addition, such passengers will receive significant safety protection by wearing lap/shoulder belts. AAP suggested that NHTSA require information in the owner's manual recommending that parents educate non-infant, non-literate children of the function of the warning light so that they will also be aware of the need to remind the driver to turn the air bag on. While NHTSA is not requiring such information in the owner's manual, NHTSA agrees that it would be a good practice.

Warning Light

NHTSA proposed requiring that there be a telltale light on the dashboard that is clearly visible from both the driver and front passenger seating positions and that is illuminated whenever the passenger air bag has been deactivated by means of the cutoff device. This light would be separate from the air bag readiness indicator already required by Standard No. 208. NHTSA proposed that the color of the telltale be yellow, with the words ''AIR BAG OFF'' clearly visible on the telltale when the passenger side air bag has been deactivated.

Two commenters (Ford and AAMA) asked NHTSA to allow the telltale to have one brightness level. Ford also asked the agency to allow either the words ''AIR BAG OFF'' OR ''OFF'' on the telltale, Advocates asked the agency to require the words ''WARNING, AIR BAG OFF'' on the telltale. Mazda asked the agency to permit the telltale to be combined with the readiness indicator. AORC, which supported automatic reactivation of the air bag, asked the agency to require a telltale which warned of the possible need to deactivate the air bag. Volvo suggested that the agency should require a telltale if a vehicle is equipped with an automatic cutoff device. Finally, SafetyBeltSafe said the agency should require the telltale to indicate both when the air bag is ''off'' and when it is ''on.''

After reviewing these comments, NHTSA is modifying the warning light requirement only to allow one level of brightness and to permit the words ''AIR BAG OFF'' to be either on the telltale or adjacent to the telltale. Other telltales are allowed to have only one level of brightness. NHTSA believes that having the words ''AIR BAG OFF'' adjacent to the telltale will be as effective a means of informing the driver or passenger of the purpose of the telltale as words on the telltale itself. NHTSA is not adding the word ''WARNING'' because NHTSA believes that drivers are aware that the purpose of a telltale is to warn them of a condition that may require immediate attention.

Air Bag Readiness Indicator

Currently, S4.5.2 of FMVSS No. 208 requires that every vehicle equipped with an air bag also be equipped with an air bag readiness indicator that informs the driver about the operational status of the air bag system. As explained in the NPRM, NHTSA is not aware of any manufacturer which complies with this requirement by installing separate readiness indicators, one for the driver air bag and another for the passenger air bag. Therefore, NHTSA proposed to amend S4.5.2 to limit the operation of a single readiness indicator when the cutoff device is ''on'' so that the indicator monitors only the air bag that is not deactivated, i.e., the driver air bag. When the cutoff device is ''off,'' the passenger air bag would be activated, and the readiness indicator would monitor the readiness of both the driver air bag and the passenger air bag.

Advocates stated that NHTSA should require separate readiness indicators for each air bag. Volvo asked the agency to standardize the ''design, locations and identification'' of readiness indicators.

NHTSA is not modifying the proposed change to the readiness indicator requirements. NHTSA does not believe it is necessary to require a separate indicator since the warning light, in effect, acts as a readiness indicator for the passenger air bag. NHTSA is also not aware of any safety need to specify the readiness indicator requirements in greater detail as requested by Volvo.

Testing

AAMA asked the agency to specify that compliance testing of the passenger air bag in a vehicle with a manual cutoff device would be done only with the air bag activated. NHTSA has added explicit language to that effect in the regulatory language.

Costs

In the NPRM, NHTSA estimated the per vehicle price for a passenger air bag cutoff device to be $10.15. Ford commented that its ''manual deactivation system is several times the

agency's estimated consumer cost, even without the photocell dimming feature which the agency estimates would cost another $5.00.''

Ford did not provide any documentation to substantiate its claim that the real cost was several times what the agency estimated. Therefore, NHTSA does not have any basis for re-examining its estimate. Since the agency is not requiring more than one level of brightness, the cost is estimated to be $4.86. In any event, the agency is not requiring such devices; thus, any cost is associated with voluntary installation.

Owner's Manual

NHTSA also proposed to require that manufacturers include information concerning the cutoff device in the owner's manual. NHTSA did not propose specific language which must be included in the owner's manual. NHTSA proposed to require the owner's manual to include instructions on the operation of the cutoff device, a statement that the cutoff device should only be used when a rear-facing infant restraint is installed in the front passenger seating position, and a warning about the safety consequences of using the cutoff device at other times.

These requirements have been included in the final rule since no commenter disagreed with any aspect of the owner's manual requirement.

Labels

Currently, Standard No. 208 requires that, by September 1, 1994, air bag-equipped vehicles will bear a label on the sun visor that warns, in part:

Do not Install Rearward-Facing Child Seats in any Front Passenger Seat Position

Also, Standard No. 213 has been amended to require either of the following labels on rear-facing infant seats or on child restraints that can be converted for use in a rear-facing infant mode:

Warning—Place This Restraint in a Vehicle Seat That Does Not Have an Air Bag

or

Warning—When Your Baby's Size Requires That This Restraint be Used so That Your Baby Faces the Rear of the Vehicle, Place the Restraint in a Vehicle Seat That Does Not Have an Air Bag

The first warning is to be used for child seats that are rear-facing only, and the second warning is to be used for infant seats that covert from forward-facing to rear-facing.

In the NPRM, NHTSA tentatively concluded that the language of these labels did not need to be amended.

Ford and AAMA asked the agency to amend the sun visor label to add a phrase like, ''unless the passenger air bag is turned off.'' Because it agrees that some motorists may be confused by this message if the vehicle has a manual cutoff device, NHTSA is amending the vehicle label requirements for vehicles equipped with manual cutoff devices. However, NHTSA is not adopting the specific language requested by Ford. Ford's language is predicated on a design which incorporates a switch with an on and off position, as Ford's design does. NHTSA is concerned that this design-based wording could be confusing if other vehicle manufacturers used designs differing from Ford's.

Automatic Cutoff Devices

As discussed in the NPRM, NHTSA concluded that Standard No. 208 currently allows automatic cutoff devices. NHTSA requested comments on whether the agency should regulate automatic cutoff devices. Specifically, NHTSA requested comments on whether any or all of the proposals in the NPRM relating to warning lights, readiness indicators, owner's manuals, and labels should also apply to vehicles equipped with automatic cutoff devices.

Only one commenter, Volvo, believed that some aspects of this final rule should also apply to automatic cutoff devices. In addition, Volvo expressed concern that, contrary to NHTSA's belief, some automatic cutoff devices may deactivate the air bag during the Standard No. 208 compliance test. NHTSA is deferring any decision on regulations for automatic cutoff devices until there is further information on how, and under what circumstances, such devices would operate.

Blue Ribbon Panel on Child Restraints

In the NPRM, NHTSA described a number of activities the agency has taken to inform consumers on proper use of child restraints. While this notice has discussed one reason why parents may not be able to use a child restraint correctly (i.e., insufficient fore-aft clearance to place the child restraint in the rear seat), improper installation can result from other factors.

On February 13, 1995, the agency announced the information of a ''blue ribbon panel'' to further address the issue of how child restraints can be made easier to install and use. The panel was asked to present its recommendations by June 1, 1995.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be ''significant'' under the Department of Transportation's regulatory policies and procedures.

The agency estimates that the consumer cost of the voluntarily installed manual cutoff device is $4.86. The $5.00 light sensor is not required in the final rule and the $5.15 for the cutoff device was wrong in the October 7, 1994 NPRM. The $5.15 included $0.29 for a placard label that the agency decided not to propose. The Preliminary Regulatory Evaluation included the correct estimate of $4.86 (1993 dollars).

The agency has revised its estimates of the number of air bag deployments per year when a front passenger seat is occupied by an infant in a rear-facing infant restraint in pickup trucks or two-seater vehicles to be 793. The agency also estimates that the number of similar deployments in other vehicles with less than 720 millimeters of rear seat space that would be eligible for a manual cutoff device is 845. Thus, the total deployments per year in vehicles that would be eligible for a manual cutoff device when the front passenger seat is occupied by an infant in a rear-facing infant restraint is estimated to be 1,638. These estimates assume that the front seat positions continue to be used by infants in vehicles with air bags and they are used by infants in vehicles without air bags, and that the warning labels are not effective in changing people's behavior. The level of injuries from these deployments are uncertain, but may well be severe.

In an effort to assess the potential for safety trade-offs resulting from the failure to reactivate the air bag after it has been deactivated for an infant, the agency estimates that only 1.3 percent of the vehicles permitted to have a cutoff device would be carrying an infant. If one assumes for the purpose of analysis that 10 percent of these were not reactivated, approximately 14 older occupants may receive AIS 2–5 (survivable) injuries. In addition, for every one percent of the vehicles in which the air bag is deliberately deactivated, 3 fatalities and 100–111 AIS 2–5 injuries would occur annually. Since the agency believes that the percentage of vehicles in which the air bag is inadvertently left off or

deactivated would be fairly small, the number of infants who would avoid potentially serious injury far exceed the number of non-infants who might be injured.

A final regulatory evaluation has been prepared for this rulemaking. A more detailed explanation of the costs and benefits can be found in that document.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, NHTSA does not anticipate a significant economic impact from this rulemaking action.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising sections S4.1.5.1(b), S4.5.1(b)(1), and S4.5.2 and adding new sections S4.5.4 and S4.5.4.1 through S4.5.4.4 and S8.4, to read as follows:

§ 571.208 Standard No. 208, Occupant Crash Protection.

* * * * *

S4.1.5.1 *Front/angular automatic protection system.*

* * * * *

(b) For the purposes of sections S4.1.5 through S4.1.5.3 and S4.2.6 through S4.2.6.2, an *inflatable restraint system* means an air bag that is activated in a crash, other than an air bag that can be deactivated by a manual cutoff device permitted by S4.5.4 of this standard.

* * * * *

S4.5.1 *Labeling and owner's manual information.*

* * * * *

(b) *Label on sun visor above front outboard seating positions equipped with inflatable restraint.*

(1) Each vehicle manufactured on or after September 1, 1994, shall comply with either S4.5.1(b)(1)(i) or S4.5.1(b)(1)(ii).

(i) Each front outboard seating position that provides an inflatable restraint shall have a label permanently affixed to the sun visor for such seating position on either side of the sun visor, at the manufacturer's option. Except as provided in S4.5.1(b)(3), this label shall read:

CAUTION

TO AVOID SERIOUS INJURY:

For maximum safety protection in all types of crashes, you must always wear your safety belt.
Do not install rearward-facing child seats in any front passenger seat position.
Do not sit or lean unnecessarily close to the air bag.
Do not place any objects over the air bag or between the air bag and yourself.
See the owner's manual for further information and explanations.

(ii) If the vehicle is equipped with a cutoff device permitted by S4.5.4 of this standard, each front outboard seating position that provides an inflatable restraint shall have a label permanently affixed to the sun visor for such seating position on either side of the sun visor, at the manufacturer's option. This label shall read:

CAUTION

TO AVOID SERIOUS INJURY:

For maximum safety protection in all types of crashes, you must always wear your safety belt.
Do not install rearward-facing child seats in any front passenger seat position, unless the air bag is off.
Do not sit or lean unnecessarily close to the air bag.
Do not place any objects over the air bag or between the air bag and yourself.
See the owner's manual for further information and explanations.

* * * * *

S4.5.2 *Readiness Indicator.* An occupant protection system that deploys in the event of a crash shall have a monitoring system with a readiness indicator. The indicator shall monitor its own readiness and shall be clearly visible from the driver's designated seating position. If the vehicle is equipped with a single readiness indicator for both a driver and passenger air bag, and if the vehicle is equipped with a cutoff device permitted by S4.5.4 of this standard, the readiness indicator shall monitor only the readiness of the driver air bag when the passenger air bag has been deactivated by means of the cutoff device. A list of the elements of the system being monitored by the indicator shall be included with the information furnished in accordance with S4.5.1 but need not be included on the label.

* * * * *

S4.5.4 *Passenger Air Bag Manual Cutoff Device.* Passenger cars, trucks, buses, and multipurpose passenger vehicles may be equipped with a device that deactivates the air bag installed at the right front passenger position in the vehicle, if all of the conditions in S4.5.4.1 through S4.5.4.4 are satisfied.

S4.5.4.1 The vehicle complies with either S4.5.4.1(a) or S4.5.4.1(b).

(a) The vehicle has no forward-facing designated seating positions to the rear of the front seating positions.

(b) With the seats and seat backs adjusted as specified in S8.1.2 and S8.1.3, the distance, measured along a longitudinal horizontal line tangent to the highest point of the rear seat bottom in the longitudinal vertical plane described in either S4.5.4.1(b)(1) or S4.5.4.1(b)(2), between the rearward surface of the front seat back and the forward surface of the rear seat back is less than 720 millimeters.

(1) In a vehicle equipped with front bucket seats, the vertical plane at the centerline of the driver's seat cushion.

(2) In a vehicle equipped with front bench seating, the vertical plane which passes through the center of the steering wheel rim.

S4.5.4.2 The device is operable by means of the ignition key for the vehicle. The device shall be separate from the ignition switch for the vehicle, so that the driver must take some action with the ignition key other than inserting it or turning it in the ignition switch to deactivate the passenger air bag. Once deactivated, the passenger air bag shall remain deactivated until it is reactivated by means of the device.

S4.5.4.3 A telltale light on the dashboard shall be clearly visible from all front seating positions and shall be illuminated whenever the passenger air bag is deactivated. The telltale:

(a) Shall be yellow;

(b) Shall have the identifying words ''AIR BAG OFF'' on the telltale or within 25 millimeters of the telltale;

(c) Shall remain illuminated for the entire time that the passenger air bag is deactivated;

(d) Shall not be illuminated at any time when the passenger air bag is not deactivated; and,

(e) Shall not be combined with the readiness indicator required by S4.5.2 of this standard.

S4.5.4.4 The vehicle owner's manual shall provide, in a readily understandable format:

(a) Complete instructions on the operation of the cutoff device;

(b) A statement that the cutoff device should only be used when a rear-facing infant restraint is installed in the front passenger seating position; and,

(c) A warning about the safety consequences of using the cutoff device at other times.

* * * * *

S8.4 *Frontal test condition.* If the vehicle is equipped with a cutoff device permitted by S4.5.4 of this standard, the device is deactivated.

* * * * *

Issued on May 18, 1995.

Ricardo Martinez,

Administrator.

[FR Doc. 95–12555 Filed 5–18–95; 1:52 pm]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 60, No. 99
Tuesday, May 23, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 704 and 741

Corporate Credit Unions; Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Extension of comment period.

SUMMARY: On April 13, 1995, the NCUA Board issued a proposed rule revising its regulations governing corporate credit unions and requirements for insurance. 60 FR 20438 (April 26, 1995). Comments were requested by June 26, 1995.

The supplementary section of the proposed rule indicated that NCUA would be conducting analytical assessments of the proposed regulation's effect on corporate credit union earnings and capital accumulation. 60 FR at 20443. NCUA has been working with an outside firm to provide such assessments, using simulation modeling techniques. The process has proved to be more time-consuming than envisioned, due to the need to tailor existing modeling programs to the specifics of corporate credit union balance sheets.

The NCUA Chairman indicated at the April 13, 1995, Board meeting that the comment period would be extended if additional time were needed because of unanticipated circumstances. The Board has determined that additional time is necessary to allow NCUA and the public sufficient opportunity to analyze the results of the modeling process and the implications for the proposed regulation. Accordingly, the comment period is being extended 60 days to August 25, 1995.

DATES: The comment period is extended from June 26, 1995, to August 25, 1995.

ADDRESSES: Mail comments to Becky Baker, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, VA 22314–3428. Send comments to Ms. Baker via the bulletin board by dialing 703–518–6480.

FOR FURTHER INFORMATION CONTACT: H. Allen Carver, Director, Office of Corporate Credit Unions (703) 518–6640, at the above address.

Authority: The authority for this action is the general rulemaking authority of the NCUA Board.

By the National Credit Union Administration Board on May 17, 1995.

Becky Baker,

Secretary of the Board.

[FR Doc. 95–12599 Filed 5–22–95; 8:45 am]

BILLING CODE 7535–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 400

Trade Regulation Rule: Advertising and Labeling as to Size of Sleeping Bags

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking (ANPR).

SUMMARY: The Federal Trade Commission (''Commission'') proposes to repeal its Trade Regulation Rule entitled ''Advertising and Labeling as to Size of Sleeping Bags'' (''Sleeping Bag Rule''), 16 CFR part 400. The proceeding will address whether the Sleeping Bag Rule should be repealed or remain in effect. The Commission is soliciting written comment, data and arguments concerning this proposal.

DATES: Written comments must be submitted on or before June 22, 1995.

ADDRESSES: Written comments should be identified as ''16 CFR Part 400'' and sent to Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John A. Crowley, Esq., (202) 326–3280, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Part A—Background Information

This notice is published pursuant to Section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a *et seq.*, the provisions of part 1, subpart B of the Commission's rules of practice, 16 CFR 1.7, and 5 U.S.C. 551 *et seq.* This authority permits the Commission to promulgate, modify and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1).

The Sleeping Bag Rule, promulgated by the Commission on October 11, 1963, declares that it is an unfair method of competition and an unfair or deceptive act or practice to use the ''cut size'' of the materials from which a sleeping bag is made to describe the size of a sleeping bag in advertising, labeling or marking unless:

(1) ''The dimensions of the cut size are accurate measurements of the yard goods used in construction of the sleeping bags''; and

(2) ''Such 'cut size' dimensions are accompanied by the words 'cut size' ''; and

(3) The reference to ''cut size'' is ''accompanied by a clear and conspicuous disclosure of the length and width of the finished products and by an explanation that such dimensions constitute the finished size.''

The Commission periodically reviews the rules and guides it has promulgated, seeking information about the costs and benefits of such rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Pursuant to its review schedule, on April 19, 1993, the Commission published in the **Federal Register** a request for public comments on the Sleeping Bag Rule. 58 FR 21095. The Commission asked commenters to address questions relating to the costs and benefits of the rule, the burdens it imposes, and the basis for assessing whether it should be retained, or amended.

The Commission received only one comment relating to the Sleeping Bag Rule. The commenter stated that there was a continuing need for the rule to deter deceptive practices.

Prior to the request for comments, Commission staff conducted an informal inquiry and inspected sleeping bags at several national chain stores. This inquiry found no violations of the Rule on either the sleeping bag packaging materials or the labels affixed to the product itself. In fact, it appeared from

that limited inquiry that industry products were marked with only the finished size. Additionally, the Commission has no record of receiving any complaints regarding non-compliance with the rule, or of initiating any law enforcement actions alleging violations of the rule's requirements. Finally, the Uniform Packaging and Labeling Regulation, which has been adopted by 47 states, regulates the labeling of sleeping bags, and appears to provide that these items must be labeled with their finished size.

Part B—Objectives

Based on the review described above, the Commission has determined that there may no longer be a need to continue the Sleeping Bag Rule in light of the apparent changes in industry practices and the existence of laws in nearly all of the states that appear to mandate point-of-sale disclosures similar to those required by the rule. The objective of this notice is to solicit comment on whether the Commission should initiate a rulemaking proceeding to repeal the Sleeping Bag Rule.

Part C—Alternative Actions

The Commission is not aware of any feasible alternatives to either repealing or retaining the Sleeping Bag Rule.

Part D—Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's review of the Sleeping Bag Rule. Comments submitted during the regulatory review proceeding described above will be made part of the record, and need not be resubmitted. A comment that includes the reasoning or basis for a proposition will likely be more persuasive than a comment without supporting information. The Commission requests that factual data upon which the comments are based be submitted with the comments. In this section, the Commission identifies a number of issues on which it solicits public comment. The identification of issues is designed to assist the public to comment on relevant matters and should not be construed as a limitation on the issues on which public comment may be submitted.

Questions

(1) Do manufacturers and sellers of sleeping bags currently use ''cut size'' as a means of marking the size of their products for sale at retail to consumers?

(2) Does the fact that nearly all of the states have adopted the Uniform Packaging and Labeling Regulation, which governs the labeling of sleeping bags, eliminate or greatly lessen the need for the Sleeping Bag Rule?

(3) What are the benefits to consumers from the rule?

(4) What are the costs to industry imposed by the rule?

(5) Is there a continuing need for the rule or should the rule be repealed?

Authority: Sec. 18(d)(2)(B) of the Federal Trade Commission Act, 15 U.S.C. 57a(d)(2)(B).

List of Subjects in 16 CFR Part 400

Advertising, Trade practices, Sleeping bags.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–12580 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 402

Trade Regulation Rule Concerning Deception as to Non-Prismatic and Partially Prismatic Instruments Being Prismatic Binoculars

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (the ''Commission'') proposed to repeal its Trade Regulation Rule entitled ''Deception as to Non-Prismatic and Partially Prismatic Instruments Being Prismatic Binoculars'' (''Binocular Rule''), 16 C.F.R. part 402. The proceeding will address whether the Binocular Rule should be repealed or remain in effect. The Commission is soliciting written comment, data, and arguments concerning this proposal.

DATES: Written comments must be submitted on or before June 22, 1995.

ADDRESSES: Written comments should be identified as ''16 CFR Part 402'' and sent to Secretary, Federal Trade Commission, Room 159, Sixth Street and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Phillip S. Priesman, Attorney, Federal Trade Commission, Division of Advertising Practices, Bureau of Consumer Protection, Washington, D.C. 20580. (202) 326–2484.

SUPPLEMENTARY INFORMATION:

Part A—Background Information

This notice is being published pursuant to Section 18 of the Federal Trade Commission (''FTC'') Act, 15 U.S.C. 57a *et seq*., the provisions of Part 1, Subpart B of the Commission's Rules of Practice, 16 CFR 1.7, and 5 U.S.C. 551 *et seq*. This authority permits the Commission to promulgate, modify, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of Section 5(a)(1) of the FTC Act, 15 U.S.C. 45.

The Binocular Rule was published in final form in the **Federal Register** on June 5, 1964, and became effective on December 2, 1964. The Rule requires a clear and conspicuous disclosure on any advertising or packaging for non-prismatic or partially prismatic binoculars that the instruments are not fully prismatic. Fully prismatic binoculars rely on a prism within the instrument to reverse the visual image entering the lens so that it appears right-side up to the user. Other binoculars rely partially or entirely on mirrors to reverse the visual image. When the rule was promulgated, the Commission was concerned that consumers could be misled into believing that non-prismatic binoculars were in fact prismatic, absent such a disclosure.

To prevent consumer deception, the rule proscribed the use of the term ''binocular'' to describe anything other than a fully prismatic instrument, unless the term was modified to indicate the true nature of the item. Under the Rule, non-prismatic instruments could be identified as binoculars only if they incorporated a descriptive term such as ''binocular-nonprismatic,'' ''binocular-mirror prismatic,'' or ''binocular-nonprismatic mirror.''

Part B—Objectives

As part of its continuing review of its trade regulation rules to determine their current effectiveness and impact, the Commission recently obtained information bearing on the need for this Rule.[1] The objective of this notice is to solicit comment on whether the Commission should initiate a rulemaking proceeding to repeal the Binocular Rule.

Part C—Alternative Actions

The Commission will consider alternatives to repealing the Binocular Rule if the comments indicate that the

[1] In a memorandum to all federal departments and agencies dated March 4, 1995, the President requested all agencies to review their regulations and to initiate proceedings to eliminate those they determined were obsolete or unnecessary. In 1992, the Commission adopted a plan to review all its rules and guides at least once during a ten-year period. In response to the President's request, the Commission accelerated its scheduled review of certain rules to identify any that might be appropriate candidates for repeal or amendment.

Rule continues to serve its original purpose.

Part D—Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's review of the Binocular Rule. The Commission requests that factual data upon which the comments are based be submitted with the comments. In this section, the Commission identifies the issues on which it solicits public comment. The identification of issues is designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

Questions

(1) Is any manufacturer currently manufacturing non-prismatic or partially-prismatic binoculars?

(2) Is any individual or business entity currently marketing non-prismatic or partially-prismatic binoculars?

(3) Do any retail stores or suppliers still maintain stocks of non-prismatic or partially-prismatic binoculars?

(4) What benefits do consumers derive from the Rule?

(5) Should the Rule be kept in effect or should it be repealed?

Authority: Section 18(d)(2)(B) of the Federal Trade Commission Act, 15 U.S.C. 57a(d)(2)(B).

List of Subjects in 16 CFR Part 417

Binoculars, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–12583 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 404

Trade Regulation Rule: Deceptive Advertising and Labeling as to Size of Tablecloths and Related Products

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking (ANPR).

SUMMARY: The Federal Trade Commission (''Commission'') proposes to repeal its Trade Regulations Rule entitled ''Deceptive Advertising and Labeling as to Size of Tablecloths and Related Products (''Tablecloth Rule''), 16 CFR part 404. The proceeding will address whether the Tablecloth Rule should be repealed or remain in effect. The Commission is soliciting written comment, data and arguments concerning this proposal.

DATES: Written comments must be submitted on or before June 22, 1995.

ADDRESSES: Written comments should be identified as ''16 CFR Part 404'' and sent to Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John A. Crowley, Esq., (202) 326–3280, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Part A—Background Information

This notice is published pursuant to Section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a *et seq.*, the provisions of part 1, subpart B of the Commission's rules of practice, 16 CFR 1.7, and 5 U.S.C. 551 *et seq.* This authority permits the Commission to promulgate, modify and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1).

The Tablecloth Rule, promulgated by the Commission on August 5, 1964, declares that in connection with the sale or offering for sale of tablecloths and related products such as doilies, table mats, dresser scarves, place mats, table runners, napkins and tea sets, any representation of the cut size (that is, the dimensions of materials used in the construction of such products) constitutes an unfair method of competition and an unfair and deceptive act or practice unless:

(a) ''Such 'cut size' dimensions are accompanied by the words 'cut size' ''; and

(b) ''The 'cut size' is accompanied by a clear and conspicuous disclosure of the dimensions of the finished products and by an explanation that such dimensions constitute the finished size.''.

The Commission periodically reviews the rules and guides it has promulgated, seeking information about the costs and benefits of such rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Pursuant to its review schedule, on April 19, 1993, the Commission published in the **Federal Register** a request for public comments on the Tablecloth Rule. 58 FR 21124. The Commission asked commenters to address questions relating to the costs and benefits of the rule, the burdens it imposes, and the basis for assessing whether it should be retained, or amended.

The Commission received only one comment specifically addressing this rule along with a general comment referring to several rules under review. The comment specific to this rule was submitted by a trade group representing the textile rental, linen supply, uniform rental, dust control and commercial laundry services industries. In its one-page comment letter, the association stated there is a continuing need for this rule. The commenter believes that the rule does not impose any additional costs or burdens on entities subject to the rule and that the rule raises the level of professionalism in the industry.

In addition, one general comment, applicable to several rules being reviewed, was received from an advertising agency association. This organization recommends rescission of the Tablecloth Rule because the general prohibitions covering false and deceptive advertising apply to the industry and thus the rule creates unnecessary administrative costs for the government, industry members and consumers. The advertising association did not submit any analysis or data relating to the imposition of unnecessary administrative costs on affected industry members, government or consumers.

Prior to the request for comments, Commission staff engaged in an informal review of industry practices by examining the marking of dimensions on tablecloths and other items subject to the rule available for retail sale at several national chain stores. This informal review revealed no instances of rule violations. In fact, it appeared from that limited review that industry products were marked with only the finished size. Additionally, the Commission has no record of receiving any complaints regarding non-compliance with the rule, or of initiating any law enforcement actions alleging violations of the rule's requirements. Finally, the Uniform Packaging and Labeling Regulation, which has been adopted by 47 states, regulates the labeling of tablecloths, providing that these items must be labeled with their finished size.

Part B—Objectives

Based on the review described above, the Commission has determined that there may no longer be a need to continue the Tablecloth Rule in light of the apparent changes in industry practices and the existence of laws in

nearly all of the states mandating the point-of-sale disclosure required by the rule. The objective of this notice is to solicit comment on whether the Commission should initiate a rulemaking proceeding to repeal the Tablecloth Rule.

Part C—Alternative Actions

The Commission is not aware of any feasible alternatives to either repealing or retaining the Tablecloth Rule.

Part D—Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's review of the Tablecloth Rule. Comments submitted during the regulatory review proceeding described above will be made part of the record, and need not be resubmitted. A comment that includes the reasoning or basis for a proposition will likely be more persuasive than a comment without supporting information. The Commission requests that factual data upon which the comments are based be submitted with the comments. In this section, the Commission identifies a number of issues on which it solicits public comment. The identification of issues is designed to assist the public to comment on relevant matters and should not be construed as a limitation on the issues on which public comment may be submitted.

Questions

(1) Do manufacturers and sellers of tablecloths currently use ''cut size'' as a means of marking the size of their products for sale at retail to consumers?

(2) Does the fact that nearly all of the states have adopted the Uniform Packaging and Labeling Regulation, which governs the labeling of tablecloths, eliminate or greatly lessen the need for the Tablecloth Rule?

(3) What are the benefits to consumers from the rule?

(4) What are the costs to industry imposed by the rule?

(5) Is there a continuing need for the rule or should the rule be repealed?

Authority: Sec. 18(d)(2)(B) of the Federal Trade Commission Act, 15 U.S.C. 57a(d)(2)(B).

List of Subjects in 16 CFR Part 404

Advertising, Trade practices, Tablecloths.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–12579 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 413

Trade Regulation Rule Concerning the Failure To Disclose That Skin Irritation May Result From Washing or Handling Glass Fiber Curtains and Draperies and Glass Fiber Curtain and Drapery Fabrics

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (the ''Commission'') proposes to commence a rulemaking proceeding to repeal its Trade Regulation Rule entitled ''Failure to Disclose that Skin Irritation May Result from Washing or Handling Glass Fiber Curtains and Draperies and Glass Fiber Curtain and Drapery Fabrics'' (''Fiberglass Curtain Rule''), 16 CFR Part 413. The proceeding will address whether the Fiberglass Curtain Rule should be repealed or remain in effect. The Commission is soliciting written comment, data, and arguments concerning this proposal.

DATES: Written comments must be submitted on or before June 22, 1995.

ADDRESSES: Written comments should be identified as ''16 CFR Part 413'' and sent to Secretary, Federal Trade Commission, Room 159, Sixth Street and Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Edwin Rodriguez or Janice Frankle, Attorneys, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, (202) 326–3147 or (202) 326–3022.

SUPPLEMENTARY INFORMATION:

Part A—Background Information

This notice is being published pursuant to Section 18 of the Federal Trade Commission (''FTC'') Act, 15 U.S.C. 57a *et seq.*, the provisions of Part 1, Subpart B of the Commission's Rules of Practice, 16 CFR 1.7, and 5 U.S.C. 551 *et seq.* This authority permits the Commission to promulgate, modify, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of Section 5(a)(1) of the FTC Act, 15 U.S.C. 45.

The Fiberglass Curtain Rule requires marketers of fiberglass curtains or draperies and fiberglass curtain or drapery cloth to disclose that skin irritation may result from handling fiberglass curtains or curtain cloth and from contact with clothing or other articles which have been washed (1) with such glass fiber products, or (2) in a container previously used for washing such glass fiber products unless the glass particles have been removed from such container by cleaning.

The Rule was promulgated on July 28, 1967 (32 FR 11023 (1967)). The Statement of Basis and Purpose for the Rule stated that the ''record is replete with consumer statements relating their experiences with varying degrees of irritation resulting from the exposure of their skin to particles from glass fiber curtains, draperies, and fabrics.'' Consequently, the Commission concluded that it was in the public interest to caution consumers that skin irritation could result from the direct handling of fiberglass curtains, drapes, and yard goods, and from body contact with clothing or other articles that had been contaminated with fiberglass particles when they were washed with fiberglass products or in a container previously used to wash fiberglass products when the container had not been cleaned of all glass particles.

Part B—Objectives

As part of its continuing review of its trade regulation rules to determine their current effectiveness and impact, the Commission recently obtained information bearing on the need for this Rule.[1] Based on this review, the Commission has tentatively determined that fiberglass curtains and drapes and fiberglass curtain or drape fabric no longer present a substantial threat of skin irritation to the consumer because technological developments in fire retardant fabrics have caused fiberglass fabric to be displaced by polyester and modacrylics in the curtain and drapery area. Fiberglass fabrics are now used almost exclusively for very specialized industrial uses. These technological developments and market changes suggest that the Fiberglass Curtain Rule may not be necessary and in the public interest. The objective of this notice is to solicit comment on whether the Commission should initiate a rulemaking proceedings to repeal the Fiberglass Curtain Rule.

[1] In a memorandum to all federal departments and agencies dated March 4, 1995, the President requested all agencies to review their regulations and to initiate proceedings to eliminate those they determined were obsolete or unnecessary. In 1992, the Commission adopted a plan to review all its rules and guides at least once during a ten-year period. In response to the President's request, the Commission accelerated its scheduled review of certain rules to identify any that might be appropriate candidates for repeal or amendment. For example, under the ten-year plan, the Fiberglass Curtain Rule was scheduled for review in 1998.

Part C—Alternative Actions

The Commission is not aware of any feasible alternatives to repealing the Fiberglass Curtain Rule.

Part D—Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's review of the Fiberglass Curtain Rule. The Commission requests that factual data upon which the comments are based be submitted with the comments. In this section, the Commission identifies the issues on which it solicits public comment. The identification of issues is designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

Questions

(1) Is any manufacturer currently manufacturing and marketing fiberglass fabric for decorative use, as opposed to industrial use such as electronic circuit boards, joint tape, and insulation?

(2) Is any individual or business entity currently marketing fiberglass curtains or drapes?

(3) What benefits do consumers derive from the Rule?

(4) Have there been any technological or other changes that have reduced or eliminated the possibility of skin irritation from contact from glass fiber material?

(5) Should the Rule be kept in effect or should it be repealed?

Authority: Section 18(d)(2)(B) of the Federal Trade Commission Act, 15 U.S.C. 57a(d)(2)(B).

List of Subjects in 16 CFR 413

Fiberglass curtains and curtain fabric, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–12584 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 417

Trade Regulation Rule Concerning the Failure To Disclose the Lethal Effects of Inhaling Quick-Freeze Aerosol Spray Products Used for Frosting Cocktail Glasses

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Trade Commission (the ''Commission'') proposes to commence a rulemaking proceeding to repeal its Trade Regulation Rule entitled ''Failure to Disclose the Lethal Effects of Inhaling Quick-Freeze Aerosol Spray Products Used for Frosting Cocktail Glasses'' (''Quick-Freeze Spray Rule''), 16 CFR part 417. The proceeding will address whether the Quick-Freeze Spray Rule should be repealed or remain in effect. The Commission is soliciting written comment, data, and arguments concerning this proposal.

DATES: Written comments must be submitted on or before June 22, 1995.

ADDRESSES: Written comments should be identified as ''16 CFR Part 417'' and sent to Secretary, Federal Trade Commission, Room 159, Sixth Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Lemuel W. Dowdy or George Brent Mickum IV, Attorneys, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, (202) 326–2981 or (202) 326–3132.

SUPPLEMENTARY INFORMATION:

Part A—Background Information

This notice is being published pursuant to Section 18 of the Federal Trade Commission (''FTC'') Act, 15 U.S.C. 57a *et seq.*, the provisions of part 1, subpart B of Commission's rules of practice, 16 CFR 1.7, and 5 U.S.C. 551 *et seq.* This authority permits the Commission to promulgate, modify, and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of section 5(a)(1) of the FTC Act, 15 U.S.C. 45.

The Quick-Freeze Spray Rule requires a clear and conspicuous warning on aerosol spray products used for frosting beverage glasses. The warning states that the contents should not be inhaled in concentrated form and that doing so may cause injury or death. Glass frosting products contain a compound known as Fluorocarbon 12 (dichlorodifluoromethane), which is also the principal ingredient used in coolants for automobile air conditioners and refrigerators.

The Rule was promulgated on February 20, 1969 (34 FR 2417 (1969)). The Statement of Basis and Purpose for the Rule stated that, although the product is not harmful when used as directed, there had been several instances where the intentional misuse of this product by inhaling its vapors resulted in death. Consequently, the Commission concluded that it was in the public interest to caution purchasers who may not otherwise be aware of the lethal effects of inhaling the product.

On October 25, 1989, the Commission published a notice in the **Federal Register** soliciting public comments on the Rule's impact on small entities. (54 FR 43435). No comments were received in response to the notice. The Commission determined, however, that a small amount of quick freeze aerosol products were still available for sale. Therefore, the Commission determined that because the Rule's safety warnings, if followed, could prevent physical harm and loss of life, the Rule should be retained.

Part B—Objectives

As part of its continuing review of its trade regulation rules to determine their current effectiveness and impact, the Commission recently obtained information bearing on the need for this Rule.[1] Based on this review, the Commission has determined that glass frosting products are no longer produced and that they are precluded by the Clean Air Act from being reintroduced into the market place.[2] The objective of this notice is to solicit comment on whether the Commission should initiate a rulemaking proceeding to repeal the Quick-Freeze Spray Rule.

Part C—Alternative Actions

The Commission is not aware of any feasible alternatives to repealing the Quick-Freeze Spray Rule.

Part D—Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's review of the Quick-Freeze Spray Rule. The Commission requests that factual data upon which the comments are based be submitted with the comments. In this section, the Commission identifies the issues on which it solicits public comment. The identification of issues is designed to

[1] In a memorandum to all federal departments and agencies dated March 4, 1995, the President requested all agencies to review their regulations and to initiate proceedings to eliminate those they determined were obsolete or unnecessary. In 1992, the Commission adopted a plan to review all its rules and guides at least once during a ten-year period. In response to the President's request, the Commission accelerated its scheduled review of certain rules to identify any that might be appropriate candidates for repeal or amendment. For example, under the ten-year plan, the Quick-Freeze Rule was scheduled for review in 1999, ten years after its last review.

[2] 42 U.S.C. 7401, 7671i. Regulations promulgated by the Environmental Protection Agency implementing the Clean Air Act ban chlorofluorocarbons in aerosols and foams for non-essential uses. 40 CFR 82.64. The ban, which includes fluorocarbon 12, became effective on January 17, 1994.

assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

Questions

(1) Is any manufacturer currently manufacturing quick-freeze spray products?

(2) Is any individual or business entity currently marketing quick-freeze spray products?

(3) Do any retail stores or suppliers still maintain stocks of quick-freeze spray products for resale?

(4) What benefits do consumers derive from the Rule?

(5) Does regulation of this product by the Environmental Protection Agency render the Rule unnecessary?

(6) Should the Rule be kept in effect or should it be repealed?

Authority: Section 18(d)(2)(B) of the Federal Trade Commission Act, 15 U.S.C. 57a(d)(2)(B).

List of Subjects in 16 CFR Part 417

Quick-freeze aerosol spray, Trade practices.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–12582 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 418

Trade Regulation Rule: Deceptive Advertising and Labeling as to Length of Extension Ladders

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking (ANPR).

SUMMARY: The Federal Trade Commission (''Commission'') proposes to repeal its Trade Regulation Rule entitled ''Deceptive Advertising and Labeling as to Length of Extension Ladders'' (''Extension Ladder Rule''), 16 CFR part 418. The proceeding will address whether the Extension Ladder Rule should be repealed or remain in effect. The Commission is soliciting written comment, data and arguments concerning this proposal.

DATES: Written comments must be submitted on or before June 22, 1995.

ADDRESSES: Written comments should be identified as ''16 CFR Part 418'' and sent to Secretary, Federal Trade Commission, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John A. Crowley, Esq., (202) 326–3280, Division of Service Industry Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Part A—Background Information

This notice is published pursuant to Section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a *et seq.*, the provisions of part 1, subpart B of the Commission's rules of practice, 16 CFR 1.7, and 5 U.S.C. 551 *et seq.* This authority permits the Commission to promulgate, modify and repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting Commerce within the meaning of section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1).

The Extension Ladder Rule, promulgated by the Commission on June 22, 1969, declares that it is an unfair or deceptive act or practice and an unfair method of competition to represent the size or length of an extension ladder, in terms of the total length of the component sections thereof, unless:

(a) Such size or length representation is accompanied by the words ''total length of sections'' or words with similar meanings which clearly indicate the basis of the representation; and,

(b) Such size or length representation is accompanied by a statement in close proximity which clearly and conspicuously shows the maximum length of the product when fully extended for use (i.e., excluding the footage lost in overlapping) along with an explanation for the basis of such representation.

The Commission periodically reviews rules and guides seeking information about the costs and benefits of such rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant modification or rescission. Pursuant to its review schedule, on April 19, 1993, the Commission published in the **Federal Register** a request for public comments on its Extension Ladder Rule. 58 FR 21125. The Commission asked commenters to address questions relating to the costs and benefits of the rule, the burdens it imposes, and the basis for assessing whether it should be retained, or amended.

The request for comments on the Extension Ladder Rule elicited six specific comments. One commenter, a consumer, opined that the only label that should be on ladders is the ''maximum working length'' since consumers should not have to do any figuring to determine the length of the ladder that would meet their needs.

Of the other five commenters, four are manufacturers or suppliers of ladders and one is a trade association. A number of these comments refer to ANSI standard A14, which governs the labeling of ladders. ANSI standard A14 details the requirements for labeling portable wood ladders, portable metal ladders, fixed ladders, job made ladders and portable reinforced plastic ladders. The ANSI standard requires specification of the maximum working length of extension ladders, as well as several other pieces of information not required by the Extension Ladder Rule, including the total length of the ladder's sections and the highest standing level of the ladder. Compliance with the ANSI standard therefore ensures compliance with the labeling requirements of the Extension Ladder Rule.

Several commenters noted this overlap in the coverage of the Extension Ladder Rule and ANSI standard A14, and recommended that the rule be retained unchanged.

Another commenter stated that the rule has imposed minor, incremental costs, but opined that the benefits have been significant in that consumers have a better understanding of extension ladder length. The commenter questioned whether there was a continuing need for this rule given the existence of ANSI standard A14 and UL Standard 184.

In addition to this specific comment, one general comment, applicable to several rules being reviewed, was received from an advertising agency association. This organization recommends rescission of the Extension Ladder Rule because the general prohibitions covering false and deceptive advertising apply to the ladder industry, and thus the Rule creates unnecessary administrative costs for the government, industry members and consumers. The advertising association did not submit any analysis or data relating to the imposition of unnecessary administrative costs on affected industry members, government or consumers.

Finally, Commission staff engaged in an informal review of industry practices by examining the marking of length on extension ladders available for retail sale at several chain stores. That review indicated general compliance with the requirements of the rule. Additionally, the Commission has no record of receiving any complaints regarding non-compliance with the rule, or of initiating any law enforcement actions

alleging violations of the rule's requirements.

Part B—Objectives

Based on the review described above, the Commission has determined that there may no longer be a need to continue the Extension Ladder Rule in light of the apparent changes in industry practices and the existence of standards mandating the point-of-sale disclosures required by the rule. The objective of this notice is to solicit comment on whether the Commission should initiate a rulemaking proceeding to repeal the Extension Ladder Rule.

Part C—Alternative Actions

The Commission is not aware of any feasible alternatives to either repealing or retaining the Extension Ladder Rule.

Part D—Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's review of the Extension Ladder Rule. Comments submitted during the regulatory review proceeding described above will be made part of the record, and need not be resubmitted. A comment that includes the reasoning or basis for a proposition will likely be more persuasive than a comment without supporting information. The Commission requests that factual data upon which the comments are based be submitted with the comments. In this section, the Commission identifies a number of issues on which it solicits public comment. The identification of issues is designed to assist the public to comment on relevant matters and should not be construed as a limitation on the issues on which public comment may be submitted.

Questions

(1) Does the existence of the ANSI standard governing the labeling of extension ladders eliminate or greatly lessen the need for the rule?

(2) What are the benefits to consumers from the rule?

(3) What are the costs to industry imposed by the rule?

(4) Is there a continuing need for the rule or should the rule be repealed?

Authority: Sec. 18(d)(2)(B) of the Federal Trade Commission Act, 15 U.S.C. 57a(d)(2)(B).

List of Subjects in 16 CFR Part 418

Advertising, Trade practices, extension ladders.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 95–12581 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

North Dakota Regulatory Program

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions and additional explanatory information pertaining to a previously proposed amendment to the North Dakota regulatory program (hereinafter, the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions and additional explanatory information pertain to North Dakota's ''Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments.'' The amendment is intended to revise this document to be consistent with the Federal regulations and to improve operational efficiency.

DATES: Written comments must be received by 4:00 p.m., m.d.t., June 7, 1995.

ADDRESSES: Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the North Dakota program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East B Street, Room 2128, Casper, WY 82601–1918, Telephone: (307) 261–5776

Edward J. Englerth, Director, Reclamation Division, North Dakota Public Service Commission, Capitol Building, Bismarck, ND 58505–0165, Telephone: (701) 224–4092

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Telephone: (307) 261–5776.

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the North Dakota program can be found in the December 15, 1980, **Federal Register** (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can be found at 30 CFR 934.12, 934.13, 934.15, 934.16, and 934.30.

II. Proposed Amendment

By letter dated February 17, 1994, North Dakota submitted a proposed amendment to its program pursuant to SMCRA (administrative record No. ND–U–01). North Dakota submitted the proposed revisions to its ''Standards for Evaluation of Revegetation Success and Recommended Procedures for Pre- and Postmining Vegetation Assessments'' (hereinafter, the ''revegetation success document'') in response to required program amendments at 30 CFR 934.16 (b) through (i), (w), and (x), and at its own initiative.

OSM announced receipt of the proposed amendment in the March 14, 1994, **Federal Register** (49 FR 11744), provided an opportunity for a public hearing or meeting on its substantive adequacy, and invited public comment on its adequacy (administrative record No. ND–U–05). Because no one requested a public hearing or meeting, none was held. The public comment period ended on April 13, 1994.

During its review of the amendment, OSM identified concerns and notified North Dakota of these concerns by letter dated September 9, 1994 (administrative record No. ND–U–10). North Dakota responded in a letter dated December 21, 1994, by submitting a revised amendment and additional explanatory information (administrative record No. ND–U–14) that addressed the concerns identified by OSM.

OSM announced receipt of the December 21, 1994, revised amendment in the January 19, 1995, **Federal Register** (60 FR 3790) and invited public comment on its adequacy (administrative record No. ND–U–15). The public comment period ended on February 3, 1995.

Subsequently, North Dakota requested a meeting with OSM to discuss its December 21, 1994, revisions that were made in response to OSM's September

9, 1994, issue letter. OSM and North Dakota met on April 11, 1995 (administrative record No. ND–U–16). North Dakota, by letter dated May 11, 1995 (administrative record No. ND–U–17), submitted, at its own initiative, additional revisions and explanatory information to its revegetation success document.

In its May 11, 1995, revised amendment, North Dakota proposes (1) A county-wide correction factor to be used with the U.S. Natural Resources Conservation Service (NRCS) yield information to adjust for climatic yield conditions on land reclaimed for use as cropland or prime farmland, (2) deletion of the allowance for ''auxiliary shelterbelts'' without revegetation success standards on land reclaimed for use as shelterbelts, (3) addition of the ability for North Dakota to require, by permit condition, shelterbelts as a postmining land use that meet the success standards in its revegetation success document, (4) addition of the allowance for tree and shrub stocking standards approved by the State Game and Fish Department and the State Forest Service, as well as by the U.S. NRCS, on land reclaimed for use as shelterbelts, (5) addition of the requirement that all species in the approved seed mixture must be present at the time of final bond release on land reclaimed for use as tame pastureland, (6) clarification that actual sample means must be used in formulas that determine sample size when measuring success of revegetation for bond release, (7) addition of specifications for size and location of representative strips used to demonstrate the restoration of soil productivity on land reclaimed for use as cropland and prime farmland, (8) deletion of the State wetland classification system and retention of the Stewart and Kantrud system of wetland classification for premining assessments on land to be reclaimed for use as fish and wildlife habitat, (9) clarification of the requirement that sampling techniques for measuring success of woody plant density use a 90-percent statistical confidence interval, (10) allowance as a normal conservation practice the voluntary planting of trees and shrubs on agricultural land at the request of the land owner or for fish and wildlife enhancement, and (11) clarification that a *single* reinforced interseeding may be allowed without restarting the liability period on land reclaimed for use as native grazing land.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed North Dakota program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the North Dakota program.

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Casper Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

IV. Procedural Determinations

1. Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 17, 1995.

Richard J. Seibel,

Regional Director, Western Regional Coordinating Center.

[FR Doc. 95–12574 Filed 5–22–95; 8:45 am]

BILLING CODE 4310–05–M

Office of the Secretary

43 CFR Part 11

RIN 1090–AA43

Natural Resource Damage Assessments; Type B—Nonuse Values

AGENCY: Department of the Interior.

ACTION: Notice of correction to semiannual regulatory agenda.

SUMMARY: On May 8, 1995, the semiannual regulatory agenda was published. The agenda incorrectly listed the Department of the Interior's Natural Resource Damage Assessments; Type B—Nonuse Values rulemaking as a completed/long-term action that had been withdrawn on March 31, 1995. 60 FR 23408, 23419. This rulemaking has neither been withdrawn nor completed. A proposed rule was issued on May 4, 1994. 59 FR 23097. The comment period closed on October 7, 1994. 59 FR 32175. The Department is currently reviewing and considering the comments received.

Dated: May 16, 1995.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 95–12514 Filed 5–22–95; 8:45 am]

BILLING CODE 4310–RG–M

FEDERAL MARITIME COMMISSION

46 CFR Part 514

[Docket No. 95–08]

Service Contract Filing Requirements—Miscellaneous Revisions

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its rules to provide an optional, abbreviated service contract format and to require service contracts to include certain identifying information concerning the signatories. This should reduce duplication and Commission and carrier costs, as well as facilitate automation of the Commission's service contract records.

DATES: Comments due June 22, 1995.

ADDRESSES: Comments (original and 15 copies) are to be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (202) 523–5725.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing, Federal Maritime Commission, 800 North Capitol Street, N.W., Washington, D.C. 20573, (202) 523–5796.

SUPPLEMENTARY INFORMATION: Service contracts subject to section 8(c) of the Shipping Act of 1984 (''1984 Act'' or ''the Act''), 46 U.S.C. app. 1707(c),[1] are filed confidentially with the Federal Maritime Commission (''FMC'' or ''Commission'').[2] Prior to such filing, a statement of each contract's essential terms (''ET'') is filed electronically in the Commission's Automated Tariff Filing and Information System (''ATFI''), made available to the general public in tariff format, and offered to all similarly situated shippers.[3]

ETs have been required to be filed in ATFI since November 1993. However, the associated confidential service contracts continue to be filed in paper format and can often be of considerable length. There is significant duplication between a service contract's text and that of its corresponding ET. To the extent the overlap between these interdependent documents can be minimized, the rate of error between the two documents should also be reduced.

Because service contracts are filed confidentially with the Commission, they must be secured under lock and key. Given the rapidly rising number of contract filings, and their sheer physical bulk, these documents are consuming an ever larger portion of the Commission's limited secured storage space.

Apart from the foregoing, the Commission is also proposing to address a ministerial detail relating to the content of service contracts. The current service contract rules do not require contracts to set forth the signatories' addresses. This has resulted in difficulty in clearly identifying shipper parties, including named affiliates, to certain service contracts, and, in some cases, hampered the Commission's investigative efforts.

The Commission therefore proposes to afford service contract parties the option of filing their service contracts in an abbreviated format, on condition that such filings incorporate by reference the corresponding ATFI ETs; certify that said ET contains all aspects of the parties' contract which are not set forth in the service contract filing; and set forth certain specific information. The FMC also proposes to require service contracts to set forth the parties' names, titles and addresses.

The collection of information requirements contained in this proposed rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511), as amended. Public reporting burden for this collection of information is estimated to decrease to an average of one manhour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Bruce A. Dombrowski, Deputy Managing Director, Federal Maritime Commission, Washington, D.C. 20573 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

The Chairman of the Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, that this proposed rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

List of Subjects in 46 CFR Part 514

Administrative practice and procedure, Antitrust, Automatic data processing, Cargo vessels, Confidential business information, Contracts, Exports, Freight, Freight forwarders, Imports, Maritime carriers, Penalties, Rates and fares, Reporting and recordkeeping requirements.

Therefore, pursuant to 5 U.S.C. 553 and sections 3, 8, and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1702, 1707 and 1716), the Federal Maritime Commission proposes to amend Part 514 of Title 46 of the Code of Federal Regulations as follows:

PART 514—[AMENDED]

1. The authority citation for Part 514 continues to read:

Authority: 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721, and 1722; and sec. 2(b) of Pub. L. 101–92, 103 Stat. 601.

2. Section 514.7 is amended by revising paragraphs (h)(1)(v) and (h)(1)(vi) and adding paragraph (h)(2)(i)(C) to read as follows:

---

[1] A service contract is defined by section 3(21) of the Act as:

* * * a contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined level—such as assured space, transit time, port rotation, or similar service features; the contract may also specify provisions in the event of nonperformance on the part of either party.

[2] Section 8(c) of the 1984 Act provides:

* * * each [service] contract entered into * * * shall be filed confidentially with the Commission, and at the same time, a concise statement of its essential terms shall be filed with the Commission and made available to the general public in tariff format, and those essential terms shall be available to all shippers similarly situated. The essential terms shall include—

(1) the origin and destination port ranges in the case of port-to-port movements, and the origin and destination geographic areas in the case of through intermodal movements;

(2) the commodity or commodities involved;

(3) the minimum volume;

(4) the line-haul rate;

(5) the duration;

(6) service commitments; and

(7) the liquidated damages for nonperformance, if any.

[3] This requirement is implemented in the Commission's rules and regulations at 46 CFR 514.7(f)(1).

§ 514.7 Service contracts in foreign commerce.

* * * * *

(h) * * *

(1) * * *

(v) The true and complete names and addresses of the contract parties and the typewritten names, titles and addresses of the representatives signing the contract for the parties. Any further references in the contract to such parties shall be consistent with the first reference (*e.g.*, (exact name), ''carrier,'' ''shipper,'' or ''association,'' etc.); and

(vi) The true and complete names and addresses of every affiliate of each contract party named under paragraph (h)(1)(v) of this section entitled to receive or authorized to offer services under the contract, except that in the case of a contract entered into by a conference or shippers' association, individual members need not be named unless the contract includes or excludes specific members. In the event the list of affiliates is too lengthy to be included on the first page, reference shall be made to the exact location of such information.

* * * * *

(2) * * *

(i) * * *

(C) Section 514.7(h)(2)(i)(A) does not apply to a service contract that incorporates by reference all of the associated essential terms filing as published in ATFI, provided that the parties certify that, other than for those provisions set forth in the filed service contract, such essential terms filing sets forth the parties' true and complete contract.[1]

* * * * *

By the Commission.

Joseph C. Polking,

Secretary.

Exhibit II to Part 514

Sample Abbreviated Format Service Contract

Service Contract No.: SC 1–95
FMC File No.: 50,000
Essentials Terms No.: ET 1–95
Amendment No.: _____
Service Contract Essential Terms Publication No.: 003
Tariff(s) of General Applicability No.: 001, 002
Carrier/Conference Name: Efficient Liner Transportation, Inc.
Carrier/Conference Address: 1227 Seaway Drive, Washington, DC 20573

and

Shipper Name: ABC Electronics Company
Shipper Address: 7221 Happiness Lane, New York, NY 10001

This is a service contract pursuant to the Shipping Act of 1984 (46 U.S.C. app. 1701 et seq.) and FMC rules at 46 C.F.R. Part 514, between ''CARRIER/CONFERENCE'' and ''SHIPPER'' parties named herein. The contract parties certify that the terms set forth herein and the essential terms as published in Carrier/Conference Service Contract Essential Terms Tariff No. 003, ET No. 1–95, in the Federal Maritime Commission's Automated Tariff Filing and Information System, constitute the true and complete copy of all aspects of this contract and are hereby incorporated by reference.

Further, shipper party named herein certifies its status and that of any affiliate(s)/subsidiary(ies) named herein as (check appropriate box(es):

☐ NVOCC
☐ Shippers' Association
☐ Owner of Cargo
☐ Other (Please specify)

Records maintained to support shipments under this service contract are: bills of lading, shipping manifests, and other related written correspondence between contract parties.

Contact person for records in the event of a request by the Federal Maritime Commission: Efficient Liner Transportation, Inc., Traffic Manager, 1227 Seaway Drive, Washington, DC 20573, (202) 523–5856.

_____
(Carrier/Conference Signature)

Date _____

Carl T. Booker, President
Efficient Liner Transportation, Inc.

_____
(Shipper Signature)

Date _____

Vanessa M. Banks, President
ABC Electronics Company

Affiliate of shipper: Quality Compact Discs, Inc.
Affiliate's address: 7221–A Happiness Lane, New York, NY 10001

[FR Doc. 95–12512 Filed 5–22–95; 8:45 am]

BILLING CODE 6730–01–P

[1] See Exhibit II of this part for an example of an abbreviated format service contract.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AD08

Migratory Bird Harvest Information Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed Rule; Extension of Comment Period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the extension of the comment period for Service's March 15, 1995, Proposed Rule published in the **Federal Register** from April 1 to May 31, 1995.

DATES: The comment period for the proposed framework will end on May 31, 1995.

ADDRESSES: Written comments should be sent to: Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 10815 Loblolly Pine Drive, Laurel, Maryland 20708–4028. Comments received will be available for public inspection during normal business hours in Building 158, 10815 Loblolly Pine Drive (Gate 4, Patuxent Environmental Science Center), Laurel, Maryland 20708–4028.

FOR FURTHER INFORMATION CONTACT: Paul I. Padding, Office of Migratory Bird Management, (301) 497–5980, FAX (301) 497–5981.

SUPPLEMENTARY INFORMATION: The Service announced in the March 15, 1995, **Federal Register** (60 FR 14194) the planned expansion of the Migratory Bird Harvest Information Program (Program) to include the States of Michigan, Oklahoma, and Oregon beginning in the 1995–96 hunting season, and minor modifications to the Program. This Program provides annually a nationwide sample frame of migratory bird hunters, from which representative samples of hunters are selected and asked to participate in a voluntary survey. State wildlife agencies provide a sample frame of hunters by annually collecting the name, address, date of birth, and a brief summary of migratory bird hunting activity from the previous year from each licensed migratory bird hunter in their State. States forward this information to the Service, and the Service samples hunters and conducts national hunter activity and harvest surveys.

Dated: May 16, 1995.

George T. Frampton, Jr.

Assistant Secretary for Fish and Wildlife and Parks

[FR Doc. 95–12508 Filed 5–22–95; 8:45 am]

BILLING CODE 4310–55–F

Notices

Federal Register
Vol. 60, No. 99
Tuesday, May 23, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to biosys of Palo Alto, California an exclusive license to U.S. Patent No. 5,061,697 issued October 29, 1991, (S.N. 07/389,090), ''Adherent Autoencapsulating Spray Formulations of Biocontrol Agents.'' Notice of Availability was published in the Federal Register on December 19, 1989.

DATES: Comments must be received on or before July 24, 1995.

ADDRESSES: Send comments to USDA, ARS, Office of Technology Transfer, Room 401, Building 005, BARC-West, Baltimore Boulevard, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as biosys has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

R.M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 95–12507 Filed 5–22–95; 8:45 am]

BILLING CODE 3410–03–M

Food Safety and Inspection Service

[Docket No. 95–007N]

International Standard-Setting Activities

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended by the Uruguay Round Agreements Act, Public Law 103–465, 108 Stat. 4809 (1994), and seeks comments on standards currently under consideration and recommendations for new standards. This notice covers the time periods from June 1, 1994, to May 31, 1995, and May 31, 1995, to June 1, 1996.

ADDRESSES: Submit written comments in triplicate to Diane Moore, Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 4352–S, Washington, DC 20250–3700. Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify those committees in your comments. All comments submitted in response to the sanitary and phytosanitary standard-setting activities of Codex will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 1 p.m., and 2 p.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Marvin A. Norcross, U.S. Coordinator for Codex Alimentarius, Office of the U.S. Codex Alimentarius, U.S. Department of Agriculture, Food Safety and Inspection Service, West End Court, Room 311, Washington, DC 20250; (202) 254–2517. For information pertaining to particular committees, the delegate of that committee may be contacted. (A complete list of U.S. delegates and alternate delegates can be found in *Appendix 1* to this notice.)

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreements on Tariffs and Trade (GATT). U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act, which was signed into law by the President on December 8, 1994. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization, the Codex Alimentarius Commission (Codex), International Office of Epizootics (OIE), and the International Plant Protection Convention (IPPC). The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of sanitary and phytosanitary standard-setting activities of each international standard-setting organization. The Secretary of Agriculture is delegating to the Under Secretary for Food Safety the responsibility to inform the public of the SPS standard-setting activities of Codex. The Acting Under Secretary for Food Safety has, in turn, assigned the responsibility for informing the public to the Office of U.S. Codex Alimentarius in the Food Safety and Inspection Service (FSIS).

The Codex Alimentarius Commission (Codex), was created in 1962 by two U.N. organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees and by

promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, FSIS, USDA; the Food and Drug Administration (FDA), Department of Health and Human Services (HHS), and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities. A supplemental **Federal Register** notice on the acceptance procedures for Codex standards will be published at a later date.

As the agency responsible for informing the public of the sanitary and phytosanitary standard-setting activities of Codex, FSIS will be publishing this notice in the **Federal Register** annually, setting forth the following information:

1. The sanitary or phytosanitary standards under consideration or planned for consideration; and

2. For each sanitary or phytosanitary standard specified:

a. A description of the consideration or planned consideration of the standard;

b. Whether the United States is participating or plans to participate in the consideration of the standard;

c. The agenda for United States participation, if any; and

d. The agency responsible for representing the United States with respect to the standard.

TO OBTAIN COPIES OF THOSE STANDARDS LISTED IN THIS NOTICE THAT ARE UNDER CONSIDERAITON BY CODEX, PLEASE CONTACT THE CODEX DELEGATE OR THE OFFICE OF U.S. CODEX ALIMENTARIUS. This notice also solicits public comment on those standards that are under consideration and on recommendations for new standards. All comments received will be circulated by FSIS to the U.S. delegate on the relevant Codex committee, and, whent he delegate is not from the agency responsible for representing the United States with respect to the standard, also to the agency that will be responsible for representing the United States with respect to the standard. The delegage, in conjuction with the responsible agency, will take the comments received into account in paritcipating in the consideration of the standards and in proposing matters to be considered by Codex.

The information proved below describes the status of Codex standard-setting activities by the Codex Committees for the two year period from June 1, 1994 to June 1, 1996. In addition, the following information is included with this **Federal Register** notice:

Appendix 1. List of U.S. Codex Officials (includes U.S. delegates and alternate delegates).

Appendix 2. Timetable fo Codex Sessions (June 1994 through June 1996).

Appendix 3. Definitions for Purpose of Codex Alimentarius.

Appendix 4. Uniform Procedure for the Elaboration of Codex Standards and Related Texts.

Appendix 5. Nature of Codex Standards.

Appendix 6. Provisional Agenda of the Joint FAO/WHO Food Standards Program, Codex Alimentarius Commission, 21st Session.

Done at Washington, DC, on May 17, 1995.

Michael R. Taylor,

Acting Under Secretary for Food Safety.

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs in Foods was established in 1986. The Committee determines priorities for the consideration of residues of veterinary drugs in foods and recommends maximum levels of such substances. A Codex Maximum Limit for Residues of Veterinary Drugs (MRLVD) is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or µg/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be legally permitted or recognized as acceptable in or on a food.

An MRLVD is based on the type and amount of residue considered to be without any toxicological hazard for human health as expressed by the Acceptable Daily Intake (ADI)*, or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical and analytical methods are available.

Codex committee	Standard	Status of consideration	U.S. participation/agenda	Responsible agency
Residues of Veterinary Drugs in Foods (to be considered at Twenty-first Session of the Codex Alimentarius Commission) (CAC) Ref. Alinorm 95/31.	Sulfadimizine	MRLs Under Consideration at Step 8.	Yes	HHS/FDA.
	Flubendazole	MRLs Under Consideration at Step 8.	Yes	HHS/FDA.
	Thiabendazole	MRL Under Consideration at Step 8.	Yes	HHS/FDA.
	Isometamidium	MRLs Under Consideration at Step 8.	Yes	HHS/FDA.
	Bovine Somatotropins	MRLs Under Consideration at Step 8.	Yes	HHS/FDA.
	Triclabendazole	MRLs Under Consideration at Step 7.	Yes	HHS/FDA.
	Levamisole	MRLs Under Consideration at Step 4&5.	Yes	HHS/FDA.
	Diminazene	MRLs Under Consideration at Step 5.	Yes	HHS/FDA.
	Carazolol	MRLs Under Consideration at Step 4.	Yes	HHS/FDA.
	Spiramycin	MRLs Under Consideration at Step 4.	Yes	HHS/FDA.

Codex committee	Standard	Status of consideration	U.S. participation/agenda	Responsible agency
	Febantel	MRLs Under Consideration at Step 4.	Yes	HHS/FDA.
	Fenbendazole	MRLs Under Consideration at Step 4.	Yes	HHS/FDA.
	Oxfendazole	MRLs Under Consideration at Step 4.	Yes	HHS/FDA.
	Spectinomycin	MRLs Under Consideration at Step 4.	Yes	HHS/FDA.
	Dexamethasone	MRLs Under Consideration at Step 4.	Yes	HHS/FDA.

*Acceptable Daily Intake (ADI): An estimate by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) of the amount of a veterinary drug, expressed on a body weight basis, that can be ingested daily over a lifetime without appreciable health risk (standard man = 60 kg).

Food Additives and Contaminants

The Codex Committee on Food Additives and Contaminants establishes or endorses permitted maximum or guideline levels for individual food additives, contaminants, and naturally occurring toxicants in food and animal feed.

The following matters contained in Alinorm 95/12A will be brought to the Twenty-first session of the Codex Alimentarious Commission in July, 1995:

fl Proposed Draft General Standard for Food Additives, Annex A (Guidelines for the Estimation of Appropriate Levels of Use of Food Additives) for adoption at Step 5; (Note: The draft standard is being developed in stages according to food additive functional classes, beginning with antioxidants and preservatives (at Step 4); see attached list.)

fl *Specifications for sulfuric acid, potassium sodium L(+)-tartrate, sodium dihydrogen phosphate and sodium L(+)-tartrate; (*Not in Step Procedure)

fl Proposed Draft Preamble to the General Standard for Contaminants and Toxins in Foods for adoption at Step 8; (Note: A number of potential contaminants are currently under consideration (at Step 4) to determine the need for establishing maximum allowable levels in foods; see attached list.)

fl Proposed Draft General Standard for Contaminants and Toxicants in Food (excluding preamble), Annex B at Step 5;

fl Position paper on aflatoxin control at Step 1;

fl Draft Maximum Level for Aflatoxin M1 in Milk at Step 7;

fl Proposed Draft Code of Practice for the Reduction of Aflatoxins in Raw Materials and Supplementary Feeding stuffs for Milk-Producing Animals at Step 3;

fl Position Paper on Ochratoxins at Step 1;

fl Proposed Draft Code of Practice on Source Directed Measures to Reduce Contamination of Food Stuffs at Step 3; and

fl Proposed Draft Standard for Lead at Step 3.

AGENCY RESPONSIBLE: HHS/FDA

U.S. PARTICIPATION: Yes

Food Additives and Contaminants

For the purposes of Codex, a food additive means any substance not normally consumed as a food by itself and not normally used as a typical ingredient in the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food results, or may be reasonably expected to result, (directly or indirectly) in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The food additive term does not include ''contaminants'' or substances added to food for maintaining or improving nutritional qualities.

The General Standard for Food Additives (GSFA) will set forth maximum levels of use of food additives in various foods and food categories. The maximum levels will be based on the food additive provisions of previously established Codex commodity standards, as well as on the use of the additives in non-standardized foods.

Only those food additives that have been found to be acceptable by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) will be included in the general Standard for Food Additives. The draft GSFA, which is being developed in stages, currently covers only those JECFA-reviewed food additives that are used as antioxidants and preservatives. These JECFA-reviewed food additives are listed in the table below.

Codex committee	Substance	Status of consideration	U.S. participation/agenda	Responsible agency
(Food Additives and Contaminants) Ref. Alinorm 95/12A.	Acetic Acid	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Anoxomer	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Ascorbic Acid	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Ascorbyl Palmitate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Ascorbyl Stearate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Benzoic Acid	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Benzoyl Peroxide	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Butylated Hydroxyanisole	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.

Codex committee	Substance	Status of consideration	U.S. participation/agenda	Responsible agency
	Butylated Hydroxytoluene	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Calcium Acetate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Calcium Ascorbate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Calcium Benzoate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Calcium Disodium Ethylenediaminetetraacetate.	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Calcium Hydrogen Sulphite	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Calcium Propionate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Calcium Sorbate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Calcium Sulphite	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Carbon Dioxide	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Citric Acid	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Dilauryl Thiodipropionate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Dimethyl Decarbonate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Diphenyl	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Disodium Ethylenediaminetetraacetate.	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Dodecyl Gallate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Erythorbic Acid	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Ethyl p-Hydroxybenzoate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Formic Acid	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Glucose Oxidase from Aspergillus niger.	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Guaiac Resin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Hexamethylene Tetramine	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Isopropyl Citrates	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Lecithin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Lysozyme	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Methyl p-Hydroxybenzoate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Nisin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Octyl Gallate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Ortho-Phenylphenol	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Oxystearin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Pimaricin (Natamycin)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Potassium Acetate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Potassium Ascorbate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Potassium Benzoate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Potassium Hydrogen Sulphite	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Potassium Lactate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.

Codex committee	Substance	Status of consideration	U.S. participation/agenda	Responsible agency
	Potassium Metabisulphite	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Sodium Nitrite	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Sodium o-Phenylphenol	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Sodium Propionate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Sodium Sorbate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Sodium Sulphite	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Sodium Thiosulphate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Sorbic Acid	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Stannous Chloride	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Sulphur dioxide	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	tert-Butylhydroquinone	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Thiodipropionic Acid	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Tocopherols Concentrate, Mixed	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Tocopherols, d-Alpha	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Tocopherols, d-Alpha, Concentrate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.

Food Additives and Contaminants

A contaminant means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandy and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food or as a result of environmental contamination. The term contaminant does not include insect fragments, rodent hairs, and other extraneous matter.

The *Codex maximum level* (ML) for a contaminant or naturally occurring toxicant in a food or feed commodity is the maximum concentration of that substance recommended by the Codex Alimentarius Commission to be legally permitted in that commodity. The ML is intended to ensure free movement of food in international trade while protecting the health of the consumer.

The General Standard for Contaminants and Toxins in Foods will establish maximum levels for contaminants in foods based on the following considerations: toxicological data, human exposure estimates, availability of analytical procedures, fair trade and technological implications, regional variations, risk assessment, and risk management.

The criteria for inclusion of a maximum level for a contaminant in a food are that: (a) Consumption of the contaminated food presents a significant risk to consumers; and (b) the existence of actual problems in trade of food. The contaminants currently being examined to determine whether they meet these criteria are listed below.

Codex committee	Substance	Status of consideration	U.S. participation/agenda	Responsible agency
(Food Additives and Contaminants) Ref. Alinorm 95/12A.	Aluminum	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Antimony	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Arsenic	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Barium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Beryllium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Cadmium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Cobalt	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Chromium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Copper	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.

Codex committee	Substance	Status of consideration	U.S. participation/agenda	Responsible agency
	Iron	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Lead	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Manganese	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Mercury	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Molybdenum	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Nickel	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Tin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Thallium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Zinc	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Fluor (compounds)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Bromine (compounds)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Bromide ion	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Iodine (compounds)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Iodide ion	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Selenium (compounds)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Nitrogen (compounds)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Nitrate ion	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Nitrite ion	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Asbestos	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Chlorinated aliphatic hydrocarbons	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Monochloromethane (methyl chloride).	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Dichloromethane	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Trichloromethane (chloroform)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Tetrachloromethane	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Monochloroethene (vinylchloride)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	1,1-Dichloroethane	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	1,2-Dichloroethane	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Dichloroethene	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	1,1,1-trichloroethane	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Trichloroethene	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Tetrachloroethene	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Halogenated aliphatic hydrocarbons (other than chlorinated).	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Aromatic halogenated hydrocarbons.	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Pentachlorobenzene	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Polychlorotbiphenyls (PCBs)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Polychloroterphenyls (PCTs)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.

Codex committee	Substance	Status of consideration	U.S. participation/agenda	Responsible agency
	Polybromobiphenyls (PBBs)	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Tetrachlorobenzyltoluenes (TCBTs).	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Chlorinated dibenzodioxins and dibenzofurans.	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Brominated dibenzodioxins and dibenzofurans.	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Chlorinated alcohols and related compounds.	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	1,3-dichloro-2-propanol	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	3-chloro-1,2-propanediol	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	3-chloro-1,2-propanediol	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Chlorinated phenols	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Other chlorinated aromatic compounds.	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Other brominated aromatic compounds.	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Aliphatic hydrocarbons	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Hexane	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Aromatic hydrocarbons	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Benzene	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Toluene	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Styrene	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Polycyclic aromatic hydrocarbons (PAHs).	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Heterocyclic compounds	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Alcohols and ethers	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Aldehydes and ketones	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Carbonic acids and esters	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Phthalate esters	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Amino compounds	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Nitrile compounds	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Acrylonitrile	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Methacrylonitrile	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Nitrosamines	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Detergents and disinfectants	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Other organic compounds	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Ethylcarbamate	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Aflatoxins	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Aflatoxins, total	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Aflatoxin B_1	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Aflatoxin M_1	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Ochtratoxins	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.

Codex committee	Substance	Status of consideration	U.S. participation/agenda	Responsible agency
	Trichothecenes	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	T–2 toxin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Fusarenon-X	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Monacetoxyscirpenol	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Diacetoxyscirpenol.	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Neosolaniol	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Verrucarin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Nivalenol	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Deoxynivalenol	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Other fusarium toxins	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Fumonisin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Monififormin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Zearalenon	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Ergot alkaloids	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Other mycotoxins	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Patulin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Sterigmatocystin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Luteoskyrin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Phycotoxins	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	DSP	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	PSP	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Bacterial toxins	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Food processing related toxins	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Glycoalkaloids	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Solanine	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Chaconine	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Tomatine	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Glucosinolates	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Cyanogenic glycosides	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Other food plant related toxins	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Safrole	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Agaritin	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Erucic acid	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Animal inherent food toxins	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Americium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Cesium 134	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.

Codex committee	Substance	Status of consideration	U.S. participation/agenda	Responsible agency
	Cesium 137	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Cobalt	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Iodine	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Polonium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Plutonium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Radium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Ruthenium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Strontium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Tritium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.
	Potassium	Maximum Levels Under Consideration at Step 4.	Yes	HHS/FDA.

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues establishes maximum limits for pesticide residues for specific food items or in groups of food. A Codex Maximum Limit for Pesticide Residues (MRLP) is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. MRLs are based on toxicological effects and on Good Agricultural Practice (GAP) data and foods derived from commodities that comply with the respective MRLPs are intended to be toxicologically acceptable.

Codex MRLPs, which are primarily intended to apply in international trade, are derived from reviews conducted by the Joint Meeting on Pesticide Residues (JMPR) following:

(a) Toxicological assessment of the pesticide and its residue; and

(b) Review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices. Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices.

Consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI,* should indicate that foods complying with Codex MRLPs are safe for human consumption.

Codex committee	Standard	Status of consideration	U.S. participation/agenda	Responsible agency
Pesticide Residues (to be considered at the 27th Session of the Codex Committee on Pesticide Residues Ref. CL 1994/24–PR).	Aldicarb	MRL Under Consideration at Step 6.	Yes	EPA.
	Benalaxyl	MRL Under Consideration at Step 3.	Yes	EPA.
	Bentazone	MRLs Under Consideration at Step 6.	Yes	EPA.
	Bromopropylate	MRLs Under Consideration at Step 3 and Withdrawals.	Yes	EPA.
	Carbofuran	MRL Under Consideration (Withdrawal)[1].	Yes	EPA.
	Chlorothalonil	MRLs Under Consideration at Step 3 and 6 and Withdrawals.	Yes	EPA.
	Cycloxydim	MRLs Under Consideration at Step 3.	Yes	EPA.
	Cyfluthrin	MRL Under Consideration at Step 6.	Yes	EPA.
	DDT	MRLs Under Consideration at Step 3.	Yes	EPA.
	Diazinon	MRLs Under Consideration at Step 3 and Withdrawals.	Yes	EPA.
	Dichlorvos	MRLs Under Consideration at Step 3 and Withdrawals.	Yes	EPA.

*Acceptable Daily Intake (ADI) of a chemical is the daily intake which, during an entire lifetime, appears to be without appreciable risk to the health of the consumer on the basis of all the known facts at the time of the evaluation of the chemical by the Joint FAO/WHO Meeting on Pesticide Residues. It is expressed in milligrams of the chemical per kilogram of body weight.

Codex committee	Standard	Status of consideration	U.S. participation/agenda	Responsible agency
	Dithiocarbamates	MRLs Under Consideration at Step 3 and Withdrawals.	Yes	EPA.
	Endosulfan	MRLs Under Consideration at Step 3 and 6 and Withdrawals.	Yes	EPA.
	Ethylenethiourea	MRLs Under Consideration at Step 8.	Yes	EPA.
	Etofenprox	MRLs Under Consideration at Step 3.	Yes	EPA.
	Fenbutatinoxide	MRLs Under Consideration at Step 3 and Withdrawals.	Yes	EPA.
	Fenpropathrin	MRLs Under Consideration at Step 3.	Yes	EPA.
	Fentin	MRL Under Consideration at Step 6.	Yes	EPA.
	Flucythrinate	MRLs Under Consideration (Withdrawals).	Yes	EPA.
	Flusilazole	MRLs Under Consideration at Step 3 and 6.	Yes	EPA.
	Folpet	MRLs Under Consideration at Step 3 and withdrawals.	Yes	EPA.
	Heptachlor	MRLs Under Consideration (Withdrawals).	Yes	EPA.
	Hexaconazole	MRLs Under Consideration at Step 6.	Yes	EPA.
	Methidathion	MRL Under Consideration at Step 3.	Yes	EPA.
	Monocrotophos	MRL Under Consideration at Step 3.	Yes	EPA.
	Omethoate	MRLs Under Consideration at Step 3 and 6.	Yes	EPA.
	Oxydemetonmethyl	MRLs Under Consideration at Step 3 and 6.	Yes	EPA.
	Phorate	MRL Under Consideration at Step 6.	Yes	EPA.
	Procymidone	MRLs Under Consideration at Step 3 and 6.	Yes	EPA.
	Profenofos	MRLs Under Consideration at Step 6.	Yes	EPA.
	Pyrazophos	MRLs Under Consideration at Step 3.	Yes	EPA.
	Triazophos	MRLs Under Consideration at Step 3, 6, 8.	Yes	EPA.
	Vinclozolin	MRL Under Consideration at Step 6.	Yes	EPA.

[1] Withdrawal—Recommended for withdrawal from Codex (see CL 1994/24–PR).

Codex Committee on Methods of Analysis and Sampling

The Codex Committee on Methods of Analysis and Sampling serves as a coordinating body for Codex with other international groups working in methods of analysis and sampling and quality assurance systems for laboratories.

The following matters will be brought to the attention of the 21st session of the Codex Alimentarius Commission in July 1995, for adoption:

- The Proposed Revised Protocol for the Design, Conduct and Interpretation of Collaborative Studies*;
- The Proficiency Testing Harmonized Protocol for Laboratory Analysis*; and
- Five Codex General Methods of Analysis for Contaminants at Step 8.
  - fl Lead and Cadmium in Food
  - fl Copper, Iron, and Nickel in Edible Oils and Fats
  - fl Lead in Edible Oils and Fats
  - fl Tin in Canned Foods
  - fl Multiple Elements in Foodstuffs

A revised paper on the Impact of Implementation of the Proposed Criteria for Evaluating Acceptable Methods of Analysis and Other Methods of Analysis is being circulated for comments.

In addition, the Draft Codex General Guidelines and the Development of Objective Criteria For Assessing the Competence of Testing Laboratories Involved in the Import and Export Control of Foods were circulated for comment.

The reference documents is Alinorm 95/23.

Responsible Agency: HHS/FDA
U.S. Participation: Yes

Codex Committee on Food Import and Export Certification and Inspection Systems

The Codex Committee on Food Import and Export Certification and Inspection Systems is charged with developing principles and guidelines for food import and export certification systems. Included in the charge are application of measures by competent authorities to provide assurance that foods comply with essential requirements. Recognition of quality assurance systems through the development of guidelines will help ensure that foods conform to the essential requirements.

The Third Session of the Committee (Alinorm 95/30A) recommended that the Proposed Draft Guidelines for the Exchange of Information on Rejections

*Not in Step procedure.

be considered by the Twenty-first session of the Codex Alimentarius Commission in July, 1995.

Two documents to be considered for final adoption at Step 8 by the Commission are:

- Draft Principles for Food Import and Export Inspection and Certification; and
- Draft Guidelines for the Exchange of Information in Food Control Emergency Situations.

The proposed draft guidelines for the exchange of information on rejections will be considered by the Commission at Step 5. Several documents are being elaborated for future discussion by the Committee:

- Proposed Draft Guidelines on the Principle Elements in an Electronic Documentation System at Step 3;
- Proposed Draft Generic Guidelines for the Design, Operation, Assessment and Accreditation of Food Inspection and Certification Systems at Step 3;
- Application of the ISO 9000 Series to Food Inspection and Certification Systems at Step 2; and
- Proposed Draft Guidelines for the Development of Agreements between Exporting and Importing Countries at Step 1.

Responsible Agency: HHS/FDA
U.S. Participation: Yes

Codex Committee on General Principles

The Codex Committee on General Principles deals with rules and procedures referred to it by the Codex Alimentarius Commission. None of the following recommendations for changing the rules of procedure for Codex are in the Step Procedure. The reference document is Alinorm 95/33.

The Eleventh Session recommended that the Rules of Procedure of Codex Alimentarius be amended to provide that one-third of the members of the Commission would be a quorum to make recommendations for amendment of the Statutes and Rules of Procedure. The Committee also agreed to revise several sections of the Procedural Manual including General Principles of the Codex Alimentarius, Guidelines for Codex Committees, and Relations Between Commodity Committees and General Committees. These matters will be considered for adoption by the Twenty-first session of the Codex Alimentarius Commission in July 1995.

The Committee also agreed to continue its work on the integration of science and other factors in the Codex decision-making process.

Responsible Agency: USDA/FSIS
U.S. Participation: Yes

Codex Committee on Food Labelling

The Codex Committee on Food Labelling is responsible for drafting provisions on labelling applicable to all foods and to study specific labelling problems assigned by the Codex Alimentarius Commission. All of the guidelines and recommendations listed below are in Alinorm 95/22.

The Proposed Draft Guidelines on the Use of Health and Nutrition Claims will be considered by the Codex Alimentarius Commission at its Twenty-first session in July, 1995, and the Proposed Draft Guidelines on the Use of the Term ''Halal'' will also be considered by Commission. Both Proposed Draft Guidelines will be considered by the Commission at Step 5.

Two documents are being circulated for comment with a view to discussion at the next Committee Session:

- Draft Guidelines for the Labelling, Production, Processing, and Marketing of Organically Produced Foods at Step 6; and
- Proposed Draft Recommendations for the Labelling of Foods and Ingredients that can cause Hypersensitivity at Step 3.

In addition, the document on the Implications of Biotechnology prepared by the United States delegation for the Twenty-third Session of the Committee will be circulated for additional comment and recommendations on how the Committee should proceed.

Codex Committee on Food Hygiene

The Food Hygiene Committee drafts basic provisions on food hygiene for all foods. The term ''hygiene'' also includes, where applicable, microbiological specifications for food and associated methodology.

The Proposed Revised Draft Code of Practice on the General Principles of Food Hygiene, including the Annex on the Application of HACCP Systems, will be considered at Step 5 by the Codex Alimentarius Commission at its Twenty-first session in July, 1995.

In addition, the Commission will consider the Draft Code of Practice for Spices and Dried Aromatic Plants for final adoption at Step 8.

Certain documents are to be elaborated prior to the next session of the Committee in late 1995. They are:

- Revision of the Principles for the Establishment and Application of Microbiological Criteria for Foods at Step 3;
- Proposed Draft Code of Practice for Refrigerated Packaged Foods with Extended Shelf-life at Step 3;
- Proposed Draft Code of Hygienic Practice for Uncured/Unripened Cheese and Ripened Soft Cheese at Step 3;
- *Recommendations for the Control of *Listeria monocytogenes*; and
- *Implementation of Risk Assessment—Development of Guidelines on the Application of the Principles of Risk Assessment and Risk Management to Food Hygiene, Including Strategies for Their Application.

The Committee also agreed to propose that the following items be considered in its future work:

- *Implications for the Broader Application of the HACCP System:
- *Guidelines for Consumer Education in Food Hygiene
- *Code of Practice for All Foodstuffs Transported in Bulk
- *Code of Hygienic Practice for Bottled Water

All documents listed above are contained in Alinorm 95/13.

Responsible Agency: HHS/FDA, USDA/FSIS
U.S. Participation: Yes

Codex Committee on Tropical Fresh Fruits and Vegetables

The Codex Committee on Tropical Fresh Fruits and Vegetables was established in June 1988. The Committee is responsible for elaborating world-wide standards and codes of practice as may be appropriate for tropical fresh fruits and vegetables which are grown exclusively in tropical zones. Several of the standards listed below are contained in ALINORM 95/35.

The fifth session of the Committee recommended that the following standards and Code of Practice be considered by the Twenty-first session of the Codex Alimentarius Commission in July, 1995, at Step 8:

- Draft Standard for Litchi;
- Draft Standard for Avocado; and
- Draft Code of Practice for the Packaging and Transport of Tropical Fresh Fruits and Vegetables

The Committee also recommended initiation or continuation of work in the following areas:

- Draft Standard for Banana (at Step 6);
- Draft Standard for Mangosteen (at Step 5);
- Draft Standard for Oranges (at Step 3);
- Draft Standard for Limes (at Step 3);
- Draft Standard for Pummelo (at Step 3);
- Draft Standard for Tropical Asparagus (at Step 3);

*Not in the Step Procedure

- Code of Practice for the Quality Inspection and Certification of Fresh Fruits and Vegetables (at Step 3);
- Draft Standard for Guava (at Step 1);
- Draft Standard for Chayote (at Step 1);
- Draft Standard for Fresh Coconut (at Step 1);
- Preparation of a paper on the Objective Indices of Maturity in Commercial Transactions of Fruits and Vegetables (at Step 1); and
- Document concerning the Application of Quality Tolerances at Import (at Step 1)

Responsible Agency: USDA/AMS
U.S. Participation: Yes

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Committee on Nutrition and Foods for Special Dietary Uses is responsible for studying nutritional problems referred by the Codex Alimentarius Commission. The Committee also drafts provisions on nutritional aspects for all foods and develops guidelines, general principles, and standards for foods for special dietary uses.

The reference document for the following standards is Alinorm 95/26. Matters which will be brought before the Twenty-first session in July, 1995, are:

- Draft Standard for Formula Foods for Use in Very Low Energy Diets for Weight Reduction for adoption at Step 8; and
- Proposed Draft Standard for Formulated Supplementary Foods and in Particular Processed Cereal Based Foods for Infants and Young Children at Step 3.

The Nineteenth Commission directed the Committee to develop a standard combining the Guidelines for Formulated Supplementary Foods for Older Infants and Young Children and the Codex Standard Processed Cereal-Based Foods for Infants and Young Children. The Committee attempted unsuccessfully to combine the guideline and the standard and is seeking approval from the Twenty-first Commission to abandon the attempt. The Committee recognizes that the Standard for Processed Cereal-Based Foods needs revision.

- Other matters to be presented to the Twenty-first Commission include:
- Proposed Draft Amendment of the Standard for Food Grade Salt to include the Iodization of Salt at Step 3;
- Proposed Draft Guidelines for Dietary Supplements of Vitamins and Minerals at Step 3;
- Proposed Draft Revised Standard for Gluten-free Foods at Step 3;
- Criteria for Definitions of Nutrient Reference Values and need for governments to submit existing data at Step 1;
- Proposed Draft Amendment to the Standard for Infant Formula to revise Vitamin B_{12} at Step 3 of accelerated procedure;
- Proposed Draft Revised Guidelines on the Inclusion of Provisions on Nutritional Quality at Step 3; and
- Revision of Standard for Infant Formula at Step 1.

The Committee obtained general support, at its last meeting, for renaming the Committee the Codex Committee on Nutrition.

Responsible Agency: HHS/FDA
U.S. Participation: Yes

Codex Committee on Fish and Fishery Products

The Fish and Fishery Products Committee is responsible for elaborating standards for fresh and frozen fish, crustaceans, and mollusks.

The following Draft Standards will be considered for adoption by the Twenty-first session of the Codex Alimentarius Commission in July, 1995, at Step 8:

- Draft General Standard for Quick Frozen Fish Fillets;
- Draft Standard for Quick Frozen Raw Squid;
- Draft Revised Standard for Quick Frozen Blocks of Fish Fillets, Minced Fish Flesh and Mixtures and Fillets and Minced Fish Flesh;
- Draft Revised Standard for Quick Frozen Finfish, Eviscerated and Uneviscerated;
- Draft Revised Standard for Quick Frozen Lobsters;
- Draft Revised Standard for Quick Frozen Fish Sticks (Fish Fingers), Fish Portions and Fish Fillets-Breaded and in Batter;
- Draft Revised Standard for Quick Frozen Shrimps or Prawns;
- Draft Revised Standard for Canned Crab Meat;
- Draft Revised Standard for Canned Finfish;
- Draft Revised Standard for Canned Salmon;
- Draft Revised Standard for Canned Sardines and Sardine-Type Products;
- Draft Revised Standard for Canned Shrimps and Prawns;
- Draft Revised Standard for Canned Tuna and Bonito; and
- Proposed Draft Revised Standard for Salted Fish and Dried Salted Fish of the Gadidae Family

The Committee agreed to have the following Codes redrafted, to take into account the recommendations of the Commission as well as to incorporate the HACCP approach at Step 3;

Proposed Draft Revised Code of Practice for Frozen Fish;
Proposed Draft Revised Code of Practice for Canned Fish;
Proposed Draft Revised Code of Practice for Frozen Shrimps and Prawns;
Proposed Draft Revised Code of Practice for Molluscan Shellfish;
Proposed Draft Revised Code of Practice for Fresh Fish;
Proposed Draft Revised Code of Practice for Smoked Fish; and
Proposed Draft Revised Code of Practice for Salted Fish;

The Committee also agreed to have the following documents elaborated at Step 3 for consideration of the next session:

- Proposed Draft Code of Practice for the Products of Aquaculture;
- Proposed Draft Code of Practice for Frozen Surimi;
- Proposed Draft Guidelines for the Sensory Evaluation of Fish and Shellfish; and
- Proposed Draft Appendix to the Guideline Levels for Methylmercury in Fish.

The reference document contained the above information is Alinorm 95/18.

Responsible Agency: HHS/FDA
U.S. Participation: Yes

Codex Committee on Cereals, Pulses and Legumes

The Codex Committee on Cereals, Pulses and Legumes is responsible for the elaboration of world-wide standards and/or codes of practice as may be appropriate for cereals, pulses, and legumes and their products.

The following Draft Standards will be considered for adoption by the Twenty-First session of the Codex Alimentarius Commission in July, 1995, at Step 8:

- Rice;
- Wheat and Durum Wheat;
- Peanuts;
- Oats; and;
- Processed Couscous.

In addition, the Commission will consider the following proposed draft Codex Standards for adoption at Step 5, with the recommendation to omit Steps 6 and 7 for adoption at Step 8:

- Wheat Flour;
- Maize (Corn);
- Whole Maize (Corn) Meal;
- Degermed Maize (Corn) Meal;
- Maize (Corn) Grits;
- Certain Pulses;
- Sorghum Grains;
- Sorghum Flour;
- Durum Wheat Semolina and Durum Wheat Flour;

- Gari;
- Whole and Decorticated Pearl Millet Grains;
- Pearl Millet Flour; and
- Edible Cassava Flour;

The Committee also agreed to advance the following document:

Proposed Draft Guideline Level and Sampling Plan for Total Aflatoxins in Peanuts intended for further Processing (at Step 5).

The reference document containing the above information is ALINORM 95/29.

Responsible Agency: HHS/FDA and USDA/GIPSA
U.S. Participation: Yes

Codex Committee on Milk and Milk Products

The Codex Committee on Milk and Milk Products was established by the Codex Alimentarius Commission at its Twentieth session. The Committee was originally established by the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) in 1958. The Committee was integrated into the Joint FAO/WHO Food Standards Programme in 1962. Until 1993, the Committee was named the Joint FAO/WHO Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products. The Committee is responsible for establishing international codes and standards concerning milk and milk products. All of the standards listed below are contained in Alinorm 95/11.

The First session of the Milk and Milk Products Committee recommended that the following standards be considered by the Twenty-first session of the Commission in July, 1995 at Step 5:

- Butter;
- Milkfat Products;
- Evaporated Milks;
- Sweetened Condensed Milks;
- Milk and Cream Powders;
- Cheese; and
- Whey Cheese.

The Committee also recommended that the Twenty-first Commission adopt the Draft Standards for Whey Powders and Edible Casein Products at Step 8.

The Committee also recommended initiation or continuation of the following:

- Fermented Milk Products with Heat Treatment after Fermentation; (at Step 1)
- Fermented Milk Products without Heat Treatment; (at Step 1)
- Cheeses in Brine; (at Step 6)
- Unripened Cheeses; (at Step 6)
- Processed Cheese; (at Step 3)
- Cream; (at Step 3)
- Yoghurt; (at Step 3)
- Individual Cheeses; (at Step 3)
- Review of the Code of Principles concerning Milk and Milk Products; (at Step 1)
- Nutritional and Quality Descriptors; (at Step 1) and
- Definitions of Heat Treatment (at Step 1)

Agency Responsible: HHS/FDA
U.S. Participation: Yes

Codex Committee on Fats and Oils

The Fats and Oils Committee is responsible for elaborating standards for fats and oils of animal, vegetable, and marine origin.

The following Proposed Draft Code and Standards will be considered at the Twenty-first session of the Codex Alimentarius Commission in July, 1995, at Step 5:

- Proposed Draft Code of Practice for the Storage and Transport of Fats and Oils in Bulk;
- Proposed Draft Standard for Edible Fats and Oils not Covered by Individual Standards;
- Proposed Draft Standard for Products Sold as an Alternative to Ghee;
- Proposed Draft Standard for Named Animal Fats;
- Proposed Draft Standard for Named Vegetable Oils;
- Proposed Draft Standard for Fat Spreads;
- Proposed Draft Standard for Olive Oils and Olive-Pomace Oils; and
- Proposed Draft Standard for Mayonnaise.

The following two standards will be considered for adoption by the Commission at its Twenty-first session:

- Draft Standard for Palm Olein at Step 8; and
- Draft Standard Palm Stearin at Step 8

All of the above documents are contained in Alinorm 95/17.

Responsible Agency: HHS/FDA
U.S. Participation: Yes

Certain Codex Subject Committees

Several Codex Alimentarius General Subject Committees have adjourned *sine die*. The following Committees fall into this category:

- *Cocoa Products and Chocolate* *
  Responsible Agency: HHS/FDA
  U.S. Participation: Yes
- *Edible Ices*
- *Meat Hygiene* *
  Responsible Agency: USDA/FSIS
  U.S. Participation: Yes
- *Natural Mineral Waters* *
  Responsible Agency: HHS/FDA
  U.S. Participation: Yes
- *Processed Meat and Poultry Products* *
  Responsible Agency: USDA/FSIS
  U.S. Participation: Yes
- *Processed Fruits and Vegetables* *
  Responsible Agency: HHS/FDA
  U.S. Participation: Yes
- *Sugars*
- *Soups and Broths*
- *Vegetable Proteins* *
  Responsible Agency: HHS/FDA
  U.S. Participation: Yes

A brief report on activities of the Codex Committee on Edible Ices, the Codex Committee on Sugars, and the Codex Committee on Soups and Broths follows:

Edible Ices

The Committee on Edible Ices is responsible for elaborating standards for all types of edible ices, including mixes and powders used for their manufacture. The Committee has been adjourned since 1978. However, as directed by the Codex Alimentarius Commission, the Secretariat of the Host Country (Sweden) has prepared a Revised Codex Standard for Edible Ices and Ice Mixes (see CL 1995/7–EI). This Revised Standard was circulated to member governments for comments by May 15, 1995. The objective of the revision is to focus the standard only on public health, food safety, and consumer protection. Provisions in the existing standard that deal with quality factors and criteria typically used in commerce to define or describe the product are of an advisory nature and have been removed in the Revised Standard.

Agency Responsible: HHS/FDA
U.S. Participation: Yes

Sugars

The Codex Committee on Sugars is responsible for elaborating world-wide standards for all types of sugars and sugar products. The Committee has been adjourned since 1974. At the direction of the Codex Alimentarius Commission, the Secretariat of the Host Government (the United Kingdom) was asked to examine the existing Codex Standards relating to sugars and the Codex Standard for Honey. During the Nineteenth session of the Codex Alimentarius Commission, the Commission agreed that existing Codex Standards should be reviewed in order to simplify them. Those documents were revised and circulated to member governments (see CL 1995/5–S) for comments by April 30, 1995. The

* There has been no activity in these committees over the past year and none is expected in the next year.

objective of the revision is to focus the standards only on public health, food safety, and consumer protection.

Agency Responsible: HHS/FDA
U.S. Participation: Yes

Soups and Broths

The Codex Committee on Soups and Broths is responsible for elaborating world-wide standards for soups, broths, bouillons, and consommes. The committee adjourned since die in 1977.

In light of the decision made by the 19th session of the Commission to simplify and revise Codex standards, a revised version of the standard for Bouillons and Consommes will be presented to the Twenty-first session of the Commission in July, 1995, for adoption. The *Revised Proposed Draft World-Wide Codex Standard for Bouillons and Consommes* was circulated to member governments for comments by October 1, 1994, and can be found in CL 1993/32–SB.

Agency Responsible: USDA/FSIS
U.S. Participation: Yes

Joint U.N.E.C.E. Codex Alimentarius Groups of Experts

Two groups of experts dealt with specific commodities much as the Codex Commodity Committees do. The Joint Groups of Experts have completed their main tasks and have adjourned. They could be called to meet again if the Codex Alimentarius Commission so decided. These Groups are:

- Standardization of Quick Frozen Foods; and
- Standardization of Fruit Juices.

There are no standards from either group for consideration by the Twenty-first session of the Commission in July, 1995, and we are unaware of any being considered for the Twenty-second session of the Commission in 1997.

Responsible Agency: HHS/FDA
U.S. Participation: Yes

FAO/WHO Regional Coordinating Committees

The Codex Alimentarius Commission is made up of an Executive Committee, as well as approximately 25 subsidiary bodies. Included in these subsidiary bodies are several coordinating committees.

There are currently five Regional Coordinating Committees:

—Coordinating Committee for Africa
—Coordinating Committee for Asia
—Coordinating Committee for Europe
—Coordinating Committee for Latin America and the Caribbean
—Coordinating Committee for North America and the South-West Pacific

The United States participates as an active member of the Coordinating Committee for North America and the South-West Pacific, and is informed of the other coordinating committees through meeting documents, final reports, and representation at meetings.

Each regional committee:

—Defines the problems and needs of the region concerning food standards and food control;
—Promotes within the committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulates the strengthening of food control infrastructures;
—Recommends to the Commission the development of world-wide standards for products of interest to the region, including products considered by the committee to have an international market potential in the future;
—And, exercises a general coordinating role for the region and such other functions as may be entrusted to it by the Commission.

Codex Coordinating Committee for North America and the South-West Pacific

The Coordinating Committee is responsible for defining problems and needs concerning food standards and food control of all Codex member countries of the regions.

The Committee, at its Third session, recommended that the Executive Committee consider proposals concerning the broader application of the HACCP system and that the proposals also be considered by the Twenty-first session of the Codex Alimentarius Commission. The Committee also requested that a comprehensive plan for risk assessment methodology and decision making criteria be developed by the Commission, and that risk analysis be considered as part of the Codex Strategy Plan.

The Committee expressed the view that the Commission should be the focus of international harmonization initiatives with respect to genetically engineered foods. In addition, the Committee recommended that further work should be carried out on the sale of potentially harmful herbs and botanicals as food. Finally, the Committee recommended that the work of the Commission should be expedited. (The information contained above can be found in ALINORM 95/32).

Responsible Agency: USDA/FSIS

U.S. Participation: Yes

Appendix 1—U.S. Codex Alimentarius Officials

April 3, 1995

Steering Committee Members

Dr. Marvin A. Norcross, U.S. Coordinator for Codex Alimentarius, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court, Room 311, 1255 22nd Street, NW., Washington, DC 20250, Phone #: (202) 254–2517, Fax #: (202) 254–2530

Mr. Michael Taylor, Acting Under Secretary for Food Safety, U.S. Department of Agriculture, Room 331–E, Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250, Phone #: (202) 720–7025, Fax #: (202) 690–4437

Ms. Patricia Jensen, Acting Assistant Secretary, Marketing and Regulatory Programs, U.S. Department of Agriculture, Room 228–W, Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250, Phone #: (202) 720–4256, Fax #: (202) 720–5775

Mr. Thomas Billy, Associate Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 331–E, Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250, Phone #: (202) 720–7025, Fax #: (202) 690–4437

Dr. Alex Thiermann, Deputy Administrator, International Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 324–E, Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250, Phone #: (202) 720–7593, Fax #: (202) 690–1484

Dr. Lynn R. Goldman, Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, SW. (7101), 637 East Tower, Washington, DC 20460, Phone #: (202) 260–2902, Fax #: (202) 260–1847

Dr. Penelope A. Fenner-Crisp, Deputy Director, Office of Pesticide Programs (7501C), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Phone #: (703) 305–7092, Fax #: (703) 308–4776

Mr. William Schultz, Deputy Commissioner for Policy, Food and Drug Administration, HF–22, 5600 Fishers Lane, Rockville, MD 20857, Phone #: (301) 443–2854, Fax #: (301) 443–5930

Dr. Fred R. Shank, Director, Center for Food Safety and Applied Nutrition (HFS–1), Food and Drug Administration, Room 6815, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–4850, Fax #: (202) 205–5025

CODEX COMMITTEE CHAIRPERSONS

[March 15, 1995]

Mr. Steven N. Tanner, Deputy Director, Quality Assurance and Research Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 10383 N. Executive Hills Blvd., Kansas City, MO 64153–1394, Phone #: (816) 891–0404, Fax #: (816) 891–8070.	Cereals, Pulses and Legumes (adjourned sine die).
Dr. John Kvenberg, Strategic Manager for HACCP Policy, Center for Food Safety and Applied Nutrition, Food and Drug Administration, Room 3014, HFS–10, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–4010, Fax #: (202) 205–4121.	Food Hygiene.
Mr. Gerald R. Parlet, Assistant to the Chief, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0713, South Building, Washington, DC 20250, Phone #: (202) 720–9896, Fax #: (202) 690–1527.	Processed Fruits and Vegetables (adjourned sine die).
Dr. Stephen F. Sundlof, Director, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Place (HFV–1), Rockville, MD 20855, Phone #: (301) 594–1740, Fax #: (301) 594–1830.	Residues of Veterinary Drugs in Foods.

Listing of U.S. Delegates and Alternate Delegates

Worldwide General Subject Codes Committees

Codex Committee on Residues of Veterinary Drug in Foods

(Host Government—United States)

U.S. Delegate:
Dr. Marvin A. Norcross, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court, Room 311, 1255 22nd Street, NW., Washington, DC 20250, Phone #: (202) 254–2517, Fax #: (202) 254–2530

Alternate Delegate:
Dr. Robert C. Livingston, Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, Phone #: (301) 594–1620, Fax #: (301) 594–2297

Codex Committee on Food Additives and Contaminants

(Host Government—The Netherlands)

U.S. Delegate:
Dr. Fred R. Shank, Director, Center for Food Safety and Applied Nutrition (HFS–1), Food and Drug Administration, 200 C Street, SW., Room 6185, Washington, DC 20204, Phone #: (202) 205–4850, Fax #: (202) 205–5025

Alternate Delegate:
(Vacant)

Codex Committee on Pesticide Residues

(Host Government—The Netherlands)

U.S. Delegate:
Dr. Richard Schmitt, Deputy Director, Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M Street, SW. (7508W), Washington, DC 20460, Phone #: (703) 308–8000, Fax #: (703) 308–8005

Alternate Delegates:
Mr. John R. Wessel, Director, Contaminants Policy Staff, Food and Drug Administration, Room 13–74 (HFC–6), 5600 Fishers Lane, Rockville, MD 20857, Phone #: (301) 443–1815, Fax #: (301) 443–7707

Dr. Richard Parry, Jr., Assistant Administrator, Cooperative Interactions, Agricultural Research Service, U.S. Department of Agriculture, Room 358–A, Administration Bldg., Washington, DC 20250, Phone #: (202) 720–3973, Fax #: (202) 720–5427

Codex Committee on Methods of Analysis and Sampling

(Host Government—Hungary)

U.S. Delegate:
Dr. William Horwitz, Scientific Advisor, Center for Food Safety and Applied Nutrition (HFS–500), Food and Drug Administration, Room 3832, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–4346, Fax #: (202) 401–7740

Alternate Delegate:
Dr. William Franks, Director, Science Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3507, South Building, 14th and Independence Avenue, SW., Washington, DC 20250, Phone #: (202) 720–5231, Fax #: (202) 720–6496

Codex Committee on Food Import and Export Certification and Inspection Systems

(Host Government—Australia)

Delegate:
Dr. Fred R. Shank, Director, Center for Food Safety and Applied Nutrition (HFS–1), Food and Drug Administration, Room 6815, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–4850, Fax #: (202) 205–5025

Alternate Delegate:
Dr. John Prucha, Deputy Administrator, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 341–E, Administration Building, Washington, DC 20250, Phone #: (202) 720–3473, Fax #: (202) 690–3856

Codex Committee on General Principles

(Host Government—France)

Delegate:
Note: A member of the Steering Committee heads the delegation to meetings of the General Principles Committee

Codex Committee on Food Labeling

(Host Government—Canada)

Delegate:
Dr. F. Edward Scarbrough, Director, Office of Food Labeling, Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration, 200 C Street, SW., Room 1832, Washington, DC 20204, Phone #: (202) 205–4561, Fax #: (202) 205–4594

Alternate Delegate:
Mr. John W. McCutcheon, Deputy Administrator, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 350–E, Administration Building, Washington, DC 20250, Phone #: (202) 720–2709, Fax #: (202) 720–2025

Codex Committee on Food Hygiene

(Host Government—United States)

Delegate:
Dr. Robert L. Buchanan, Deputy Administrator, Science and Technology, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 402, Annex Building, Washington, DC 20250, Phone #: (202) 205–0495, Fax #: (202) 401–1760

Alternate Delegate:
Mr. E. Spencer Garrett, Director, National Seafood Inspection Laboratory, National Marine Fisheries, 705 Convent Street, Pascagoula, MS 39568–1207, Phone #: (601) 762–7403, Fax #: (601) 769–9200

Worldwide Commodity Codex Committees

Codex Committee on Tropical Fresh Fruits and Vegetables

(Host Government—Mexico)

Delegate:
Mr. David Priester, International Standards Coordinator, FPB, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2068, South Building, 14th and Independence Ave., SW., Washington, DC 20250, Phone #: (202) 720–2184, Fax #: (202) 720–0016

Alternate Delegate:
Ms. Sharon E. Bomer-Lauritsen, Asst. to Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S.

Department of Agriculture, Room 2071, South Building, 14th and Independence Avenue, SW., Washington, DC 20250, Phone #: (202) 720–2173, Fax #: (202) 720–0016

Codex Committee on Nutrition and Foods for Special Dietary Uses

(Host Government—Germany)

Delegate:
Dr. Elizabeth Yetley, Acting Director, Office of Special Nutritionals, Center for Food Safety and Applied Nutrition, FDA, 200 C Street, SW. (HFS–450), Washington, DC 20204, Phone #: (202) 205–4168, Fax #: (202) 205–5295

Alternate Delegate:
Ms. Linda P. Posati, Deputy Director, Product Assessment Division, Labels, Standards and Review Program, RP, U.S. Department of Agriculture, Food Safety and Inspection Service, West End Court Building, Room 329, 1255 22 Street, NW., Washington, DC 20037, Phone #: (202) 254–2565, Fax #: (202) 254–2499

Codex Committee on Fish and Fishery Products

(Host Government—Norway)

Delegate:
Mr. Thomas Billy, Associate Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 331–E, Administration Building, 14th and Independence Avenue, SW., Washington, DC 20250, Phone #: (202) 720–7025, Fax #: (202) 690–4437

Alternate Delegate:
Mr. Samuel W. McKeen, Director, Office of Trade and Industry Services, National Oceanic and Atmospheric Administration, NMFS, 1335 East-West Highway, Room 6490, Silver Spring, MD 20910, Phone #:(301) 713–2351, Fax #: (301) 713–1081

Codex Committee on Cereals, Pulses and Legumes

(Host Government—United States)

Delegate:
Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Alternate Delegate:
Mr. David Shipman, Chief, Standards and Procedures Branch, U.S. Department of Agriculture, Room 1661-South Building, 14th and Independence Ave., SW., Washington, DC 20250, Phone #: (202) 720–0228, Fax #: (202) 720–1015

Codex Committee on Milk and Milk Products

(Host Government—New Zealand)

Delegate:
Mr. Duane Spomer, Chief, Dairy Standardization Branch, U.S. Department of Agriculture, Agricultural Marketing Service, Room 2750-South Building, 14th and Independence Ave., SW., Washington, DC 20250, Phone #: (202) 720–9385, Fax #: (202) 720–2643

Alternate Delegate:
(Vacant).

Codex Committee on Fats and Oils

(Host Government—United Kingdom)

Delegate:
Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Alternate Delegate:
Mr. Timothy L. Mounts, Research Leader, Food Quality and Safety Research Unit, National Center for Agricultural Utilization Research, Agricultural Research Service, USDA, 1815 North University Street, Peoria, IL 61604, Phone #: (309) 681–6555, Fax #: 681–6679

Worldwide Commodity Codex Committees

(Adjourned sine die)

Codex Committee on Cocoa Products and Chocolate

(Host Government—Switzerland)

Delegate:
Mr. Charles W. Cooper, Director International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS—585), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Alternate Delegate:
Dr. Michelle Smith, Food Technologist, Office of Food Labeling, Center for Food Safety and Applied Nutrition (HFS–158), 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5099, Fax #: (202) 205–4594

Codex Committee on Sugars

(Host Government—United Kingdom)

Delegate:
Dr. Thomas J. Army, Area Director, Northern Plains Area, Agricultural Research Center, 1201 Oakridge Drive, Suite 150, Ft. Collins, CO 80525–5562, Phone #: (303) 229–5557, Fax #: (303) 229–5531

Alternate Delegate:
Mr. Durward Dodgen, Office of Premarket Approval, Center for Food Safety and Applied Nutrition, (HFS–200), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 418–3100, Fax #: (202) 418–3131

Codex Committee on Processed Fruits and Vegetables

(Host Government—United States)

U.S. Delegate:
Mr. Richard B. Boyd, Senior Marketing Specialist, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 717, South Building, 14th and Independence Avenue, SW., Washington, DC 20250, Phone #: (202) 720–5021, Fax #: (202) 690–1527

Alternate Delegate:
Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Codex Committee on Edible Ices

(Host Government—Sweden)

Delegate:
Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Alternate Delegate:
(Vacant)

Codex Committee on Soups and Broths

(Host Government—Switzerland)

Delegate:
Mr. Charles Edwards, Director, Product Assessment Division, Labels, Standards and Review Program, RP, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court Building, Room 329, 1255 22nd Street, NW., Washington, DC 20037, Phone #: (202) 254–2565, Fax #: (202) 254–2499

Alternate Delegate:
Mr. Robert Post, Branch Chief, Food Standards and Ingredients Branch, PAD, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court Building, Room 237, 1255 22nd Street, NW., Washington, DC 20037, Phone #: (202) 254–2588, Fax #: (202) 254–2499

Codex Committee on Vegetable Proteins

(Host Government—Canada)

U.S. Delegate:
Dr. Wilda H. Martinez, Associate Deputy Administrator, Aqua Products and Human Nutrition Sciences, U.S. Department of Agriculture, Agriculture Research Service, Room 107, B–005, Beltsville, MD 20705, Phone #: (301) 504–6275, Fax #: (301) 504–6699

Alternate Delegate:
Ms. Elizabeth J. Campbell, Director, Division of Programs and Enforcement Policy, Center for Food Safety and Applied Nutrition (HFS–155), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5229, Fax #: (202) 205–4594

Codex Committee on Meat Hygiene

(Host Government—New Zealand)

Delegate:
Dr. John Prucha, Deputy Administrator, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 341–E, Administration Building, Washington, DC 20250, Phone #: (202) 720–3473, Fax #: (202) 690–3856

Alternate Delegate:

Dr. Richard Mikita, Export Advisor, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 6916A, Franklin Court, Suite 6900E, Washington, DC 20250–3700, Phone #: (202) 501–6703, Fax #: (202) 501–6399

Codex Committee on Processed Meat and Poultry Products

(Host Government—Denmark)

U.S. Delegate:

Mr. Charles Edwards, Director, Product Assessment Division, Labels, Standard and Review Program, RP, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court Building, Room 329, 1255 22 Street, NW., Washington, DC 20037, Phone #: (202) 254–2565, Fax #: (202) 254–2499

Alternate Delegate:

Mr. Syed Amjad Ali, Food Technologist, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court, Room 311, 1255 22nd Street, NW., Washington, DC 20250, Phone #: (202) 254–2517, Fax #: (202) 254–2530

Codex Committee on Natural Mineral Waters

(Host Government—Switzerland)

U.S. Delegate:

Dr. Terry C. Troxel, Director, Division of Programs and Enforcement Policy, Center for Food Safety and Applied Nutrition (HFS–305), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5321, Fax #: (202) 205–4422

Alternate Delegate:

(Vacant)

Joint U.N.E.C.E. Codex Alimentarius Groups of Experts

Joint ECE/Codex Alimentarius Group of Experts on Standardization of Quick Frozen Foods

U.S. Delegate:

Mr. Richard B. Boyd, Senior Marketing Specialist, Fruit and Vegetable Division, Agriculture Marketing Service, U.S. Department of Agriculture, Room 0717, South Building, 14th and Independence Avenue, SW., Washington, DC 20250, Phone #: (202) 720–5021, Fax #: (202) 690–1527

Alternate Delegate:

Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Joint ECE/Codex Alimentarius Group of Experts on Standardization of Fruit Juices

U.S. Delegate:

(Vacant)

Alternate Delegate:

Mr. Richard B. Boyd, Senior Marketing Specialist, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0717, South Building, 14th and Independence Avenue, SW., Washington, DC 20250, Phone #: (202) 720–5021, Fax #: (202) 690–1527

Subsidiary Bodies of the Codex Alimentarius

There are five regional coordinating committees:

Coordinating Committee for Africa
Coordinating Committee for Asia
Coordinating Committee for Europe
Coordinating Committee for Latin America and the Caribbean, and
Coordinating Committee for North America and the South-West Pacific

Contact:

Ms. Rhonda S. Nally, Executive Officer for Codex Alimentarius, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court, Room 311, 1255 22nd Street, NW., Washington, DC 20250, Phone #: (202) 254–2517, Fax #: (202) 254–2530

APPENDIX 2.—TIMETABLE OF CODEX SESSIONS

[June 1994 through June 1996]

1994			
CX 732–3	Codex Coordinating Committee for North America and the South-West Pacific (3rd Session).	31 May–3 June	Vancouver.
CX 730–8	Codex Committee on Residues of Veterinary Drugs in Foods (8th Session)	7–10 June	Washington, DC.
CX 702–41	Executive Committee of the Codex Alimentarius Commission (41st Session)	28–30 June	Rome.
CX 731–5	Codex Committee on Tropical Fresh Fruits and Vegetables (5th Session)	5–9 Sept	Mexico City.
CX 712–27	Codex Committee on Food Hygiene (27th Session)	17–21 Oct	Washington, DC.
CX 714–23	Codex Committee on Food Labeling (23rd Session)	24–28 Oct	Ottawa.
CX 729–9	Codex Committee on Cereals, Pulses and Legumes (9th Session)	31 Oct.–4 Nov	Washington, DC.
CX 703–1	Codex Committee on Milk and Milk Products (1st Session)	28 Nov.–2 Dec	Rome.
1995			
CX 733–3	Codex Committee on Food Import and Export Inspection and Certification Systems (3rd Session).	27 Feb.–3 Mar	Canberra.
CX 711–27	Codex Committee on Food Additives and Contaminants (27th Session)	20–24 Mar	The Hague.
CX 720–19	Codex Committee on Nutrition and Foods for Special Dietary Uses (19th Session).	27–31 Mar	Bonn.
CX 725–9	Codex Coordinating Committee for Latin America and the Caribbean (9th Session).	3–6 Apr	Brasilia.
CX 718–27	Codex Committee on Pesticide Residues (27th Session)	24–29 Apr	The Hague.
CX 707–11	Codex Coordinating Committee for Africa (11th Session)	8–11 May	Abuja.
CX 702–42	Executive Committee of the Codex Alimentarius Commission (42nd Session)	28–30 June	Rome.
CX 701–21	Codex Alimentarius Commission (21st Session)	3–8 July	Rome.
CX 715–20	Codex Committee on Methods of Analysis and Sampling (20th Session)	2–6 Oct	Budapest.
CX 712–28	Codex Committee on Food Hygiene (28th Session)	TBA	Washington, DC.
CX 730–9	Codex Committee on Residues of Veterinary Drugs in Foods (9th Session)	TBA	Washington, DC.
CX 732–4	Codex Coordinating Committee for North America and the South-West Pacific (4th Session).	5–8 Dec	[Rotorua] N.Z.
1996			
CX 731–6	Codex Committee on Tropical Fresh Fruits and Vegetables (6th Session)	29 Jan.–2 Feb	Mexico City.
CX 711–28	Codex Committee on Food Additives and Contaminants (28th Session)	11–15 Mar	The Hague.
CX 727–10	Codex Regional Coordinating Committee for Asia (10th Session)	19–22 Mar	[Tokyo].
CX 718–28	Codex Committee on Pesticide Residues (28th Session)	15–20 Apr	The Hague.
CX 706–20	Codex Regional Coordinating Committee for Europe (20th Session)	23–26 Apr	Stockholm.
CX 722–22	Codex Committee on Fish and Fishery Products (22nd Session)	6–10 May	Bergen.
CX 714–24	Codex Committee on Food Labelling (24th Session)	14–17 May	Ottawa.

APPENDIX 2.—TIMETABLE OF CODEX SESSIONS—Continued

[June 1994 through June 1996]

CX 703–1	Codex Committee on Milk and Milk Products (2nd Session)	27–31 May	Rome.
CX 702–43	Executive Committee of the Codex Alimentarius Commission (43rd Session)	4–7 June	Geneva.
CX 708–16	Codex Committee on Cocoa Products and Chocolate (16th Session)	10–12 June	TBA.
CX 719–5	Codex Committee on Natural Mineral Waters (5th Session)	13–14 June	TBA.
CX 707–12	Codex Regional Coordinating Committee for Africa (12th Session)	TBA	TBA.

Appendix 3—Definitions for the Purpose of Codex Alimentarius

Words and phrases have specific meanings when used by the Codex Alimentarius. For the purposes of Codex, the following definitions apply:

1. *Food* means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum, and any substance which has been used in the manufacture, preparation or treatment of ''food'' but does not include cosmetics or tobacco or substances used only as drugs.

2. *Food Hygiene* comprises conditions and measures necessary for the production, processing, storage and distribution of food designed to ensure a safe, sound, wholesome product fit for human consumption.

3. *Food Additive* means any substance not normally consumed as a food by itself and not normally used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food results, or may be reasonably expected to result (directly or indirectly) in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The food additive term does not include ''contaminants'' or substances added to food for maintaining or improving nutritional qualities.

4. *Contaminant* means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry, and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination. The term does not include insect fragments, rodent hairs and other extraneous matters.

5. *Pesticide* means any substance intended for preventing, destroying, attracting, repelling, or controlling any pest including unwanted species of plants or animals during the production, storage, transport, distribution and processing of food, agricultural commodities, or animal feeds or which may be administered to animals for the control of ectoparasites. The term includes substances intended for use as a plant-growth regulator, defoliant, desiccant, fruit thinning agent, or sprouting inhibitor and substances applied to crops either before or after harvest to protect the commodity from deterioration during storage and transport. The term pesticides excludes fertilizers, plant and animal nutrients, food additives, and animal drugs.

6. *Pesticide Residue* means any specified substance in food, agricultural commodities, or animal feed resulting from the use of a pesticide. The term includes any derivatives of a pesticide, such as conversion products, metabolites, reaction products, and impurities considered to be of toxicological significance.

7. *Good Agricultural Practice in the Use of Pesticides (GAP)* includes the nationally authorized safe uses of pesticides under actual conditions necessary for effective and reliable pest control. It encompasses a range of levels of pesticide applications up to the highest authorized use, applied in a manner which leaves a residue which is the smallest amount practicable.

Authorized safe uses are determined at the national level and include nationally registered or recommended uses, which take into account public and occupational health and environmental safety considerations.

Actual conditions include any stage in the production, storage, transport, distribution and processing of food commodities and animal feed.

8. *Codex Maximum Limit for Pesticide Residues (MRLP)* is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. MRLPs are based on their toxicological effects and on GAP data and foods derived from commodities that comply with the respective MRLPs are intended to be toxologically acceptable.

Codex MRLPs, which are primarily intended to apply in international trade, are derived from reviews conducted by the JMPR following:

(a) Toxicological assessment of the pesticide and its residue and

(b) Review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices. Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices.

Consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI, should indicate that foods complying with Codex MRLPs are safe for human consumption.

9. *Veterinary Drug* means any substance applied or administered to any food-producing animal, such as meat or milk-producing animals, poultry, fish or bees, whether used for therapeutic, prophylactic or diagnostic purposes or for modification of physiological functions or behavior.

10. *Residues of Veterinary Drugs* include the parent compounds and/or their metabolites in any edible portion of the animal product, and include residues of associated impurities of the veterinary drug concerned.

11. *Codex Maximum Limit for Residues of Veterinary Drugs (MRLVD)* is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or µg/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be legally permitted or recognized as acceptable in or on food.

An MRLVD is based on the type and amount of residue considered to be without any toxicological hazard for human health as expressed by the Acceptable Daily Intake (ADI), or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical and analytical methods are available.

12. *Good Practice in the Use of Veterinary Drugs* (GPVD) is the official recommended or authorized usage including withdrawal periods approved by national authorities, of veterinary drugs under practicable conditions.

13. *Processing Aid* means any substance or material, not including apparatus or utensils, not consumed as a food ingredient by itself, intentionally used in the processing of raw materials, foods or its ingredients, to fulfill a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

Appendix 4—Uniform Procedure for the Elaboration of Codex Standards and Related Texts

Steps 1, 2 and 3

(1) The Commission decides, taking into account the ''Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies,'' to elaborate a Worldwide

Codex Standard and also decides which subsidiary body or other body should undertake the work. A decision to elaborate a Worldwide Codex Standard may also be taken by subsidiary bodies of the Commission in accordance with the above-mentioned criteria, subject to subsequent approval by the Commission or its Executive Committee at the earliest possible opportunity. In the case of Codex Regional Standards, the Commission shall base its decision on the proposal of the majority of members belonging to a given region or group of countries submitted at a session of the Codex Alimentarius Commission.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5[2]

The proposed draft standard is submitted through the Secretariat to the Commission or to the Executive Committee with a view to its adoption as a draft standard. When making any decision at this step, the Commission or the Executive Committee will give due consideration to any comments that may be submitted by any of its members regarding the implications which the proposed draft standard or any provisions of the standard may have for their economic interests. In the case of Regional Standards, all members of the Commission may present their comments, take part in the debate and propose amendments, but only the majority of the Members of the region or group of countries concerned attending the session can decide to amend or adopt the draft. When making any decisions at this step, the members of the region or group of countries concerned will give due consideration to any comments that may be submitted by any of the members of the Commission regarding the implications which the proposed draft standard or any provisions of the proposed draft standard may have for their economic interests.

Step 6

The draft standard is sent by the Secretariat to all members and interested international organizations for comment on all aspects, including possible implications of the draft standard for their economic interests.

Step 7

The comments received are sent by the Secretariat to the subsidiary body or other body concerned, which has the power to consider such comments and amend the draft standard.

Step 8

The draft standard is submitted through the Secretariat to the Commission together with any written proposals received from members and interested international organizations for amendments at Step 8 with a view to its adoption as a Codex Standard. In the case of Regional standards, all members and interested international organizations may present their comments, take part in the debate and propose amendments but only the majority of members of the region or group of countries concerned attending the session can decide to amend and adopt the draft.

Appendix 5—Nature of Codex Standards

Codex standards contain requirements for food aimed at ensuring for the consumer a sound, wholesome food product free from adulteration, and correctly labelled. A Codex standard for any food or foods should be drawn up in accordance with the Format for Codex Commodity Standards and contain, as appropriate, the criteria listed therein.

Format for Codex Commodity Standards Including Standards Elaborated Under the Code of Principles Concerning Milk and Milk Products

Introduction

The format is also intended for use as a guide by the subsidiary bodies of the Codex Alimentarius Commission in presenting their standards, with the object of achieving, as far as possible, a uniform presentation of commodity standards. The format also indicates the statements which should be included in standards as appropriate under the relevant headings of the standard. The sections of the format required to be completed for a standard are only those provisions that are appropriate to an international standard for the food in question.

Name of the Standard
Scope
Description
Essential Composition and Quality Factors
Food Additives
Contaminants
Hygiene
Weights and Measures
Labelling
Methods of Analysis and Sampling

Format for Codex Standards

Name of the Standard

The name of the standard should be clear and as concise as possible. It should usually be the common name by which the food covered by the standard is known or, if more than one food is dealt with in the standard, by a generic name covering them all. If a fully informative title is inordinately long, as subtitle could be added.

Scope

This section should contain a clear, concise statement as to the food or foods to which the standard is applicable unless the name of the standard clearly and concisely identifies the food or foods. A generic standard covering more than one specific product should clearly identify the specific products to which the standard applies.

Description

This section should contain a definition of the product or products with an indication, where appropriate, of the raw materials from which the product or products are derived and any necessary references to processes of manufacture. The description may also include references to types and styles of product and to type of pack. The description may also include additional definitions when these additional definitions are required to clarify the meaning of the standard.

Essential Composition and Quality Factors

This section should contain all quantitative and other requirements as to composition including, where necessary, identity characteristics, provisions on packing media and requirements as to compulsory and optional ingredients. It should also include quality factors which are essential for the designation, definition, or composition of the product concerned. Such factors could include the quality of the raw material, with the object of protecting the health of the consumer, provisions on taste, odor, color, and texture which may be apprehended by the senses, and basic quality criteria for the finished products, with the object of preventing fraud. This section may refer to tolerances for defects, such as blemishes or imperfect material, but this information should be contained in appendix to the standard or in another advisory text.

Food Additives

This section should contain the names of the additives permitted and, where appropriate, the maximum amount permitted in the food. It should be prepared in accordance with guidance given on pages 93 to 96 of the Codex Procedural Manual and may take the following form:

''The following provisions in respect of food additives and their specifications as contained in section . . . of the Codex Alimentarius are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants.''

A tabulation should then follow, viz.:

''*Name of additive, maximum level* (in percentage or mg/kg).''

[2] Without prejudice to any decision that may be taken by the Commission at Step 5, the proposed draft standard may be sent by the Secretariat for government comment prior to its consideration at Step 5, when, in the opinion of the subsidiary body or other body concerned, the time between the relevant session of the Commission and the subsequent session of the subsidiary or other body concerned requires such action in order to advance the work.

Contaminants

(a) *Pesticide Residues:* This section should include, by reference, any levels for pesticide residues that have been established by the Codex Committee on Pesticide Residues for the product concerned.

(b) *Other Contaminants:* In addition, this section should contain the names of other contaminants and where appropriate the maximum level permitted in the food, and the text to appear in the standard may take the following form:

''The following provisions in respect of contaminants, other than pesticide residues, are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants.''

A tabulation should then follow, viz.:

''*Name of contaminant, maximum level* (in percentage or mg/kg).''

Hygiene

Any specific mandatory hygiene provisions considered necessary should be included in this section. They should be prepared in accordance with the guidance given on pages 96 to 98 of the Codex Procedural Manual. Reference should also be made to applicable codes of hygienic practice. Any parts of such codes, including in particular any end-product specifications, should be set out in the standard, if it is considered necessary that they should be made mandatory. The following statement should also appear:

''The following provisions in respect of the food hygiene of the product are subject to endorsement [have been endorsed] by the Codex Committee on Food Hygiene.''

Weights and Measures

This section should include all provisions, other than labelling provisions, relating to weights and measures, e.g. where appropriate, fill of container, weight, measure or count of units determined by an appropriate method of sampling and analysis. Weights and measures should be expressed in S.I. units. In the case of standards which include provisions for the sale of products in standardized amounts, e.g. multiples of 100 grams, S.I. units should be used, but this would not preclude additional statements in the standards of these standardized amounts in approximately similar amounts in other systems of weights and measures.

Labelling

This section should include all the labelling provisions contained in the standard and should be prepared in accordance with the guidance given on pages 91 to 93 of the Codex Procedural Manual. Provisions should be included by reference to the General Standard for the Labelling of Prepackaged Foods. The section may also contain provisions which are exemptions from, additions to, or which are necessary for the interpretation of the General Standard in respect of the product concerned provided that these can be justified fully. The following statement should also appear:

''The following provisions in respect of the labelling of this product are subject to endorsement [have been endorsed] by the Codex Committee on Food Labelling.''

Methods of Analysis and Sampling

This section should include, either specifically or by reference, all methods of analysis and sampling considered necessary and should be prepared in accordance with the guidance given on pages 99 to 102 of the Codex Procedural Manual. If two or more methods have been proved to be equivalent by the Codex Committee on Methods of Analysis and Sampling, these could be regarded as alternative and included in this section either specifically or by reference. The following statement should also appear:

''The methods of analysis and sampling described hereunder are to be endorsed [have been endorsed] by the Codex Committee on Methods of Analysis and Sampling.''

Appendix 6

Provisional Agenda of the Joint FAO/WHO Food Standards Programme, Codex Alimentarius Commission, Twenty-First Session, Plenary Hall, FAO Headquarters, Rome, July 3–8, 1995:

Item and subject matter	Document
1. Adoption of the Agenda	ALINORM 95/1.
2. Election of Officers of the Commission and Members of the Executive Committee and Appointment of Regional Coordinators.	ALINORM 95/2.
3. Report on the financial situation of the Joint FAO/WHO Food Standards Programme for 1994/95 and 1996/97	ALINORM 95/5.
4. Implementation of the Medium-Term Plan of the Codex Alimentarius Commission: (a) Report on progress in achieving the Medium-Term Plan (b) Strategies for achieving the Medium-Term Plan	ALINORM 95/6.
5. Implementation of the Uruguay Round of Multilateral Trade Negotiations: Working arrangements between the Codex Alimentarius Commission and the World Trade Organization.	ALINORM 95/7.
6. Consideration of proposals to base Codex standards and other recommendations of scientific principles and the extent to which other factors need to be taken into account.	ALINORM 95/8.
7. Risk assessment/risk analysis in Codex: Recommendations of a Joint FAO/WHO Expert Consultation	ALINORM 95/9.
8. Cooperation with the United Nations Economic Commission for Europe in the elaboration of world-wide standards for fresh fruit and vegetables and related products.	ALINORM 95/10.
9. Consideration of draft amendments to the Procedural Manual of the Codex Alimentarius Commission: (a) Rules of Procedure (b) Guidelines for Codex Committees (c) Format of Codex Standards	ALINORM 95/14.
10. Consideration of draft and proposed draft standards and related texts for general application: (a) Food Additives (b) Contaminants (c) Pesticides (Maximum residue limits) (d) Veterinary drugs (Maximum residue limits) (e) Food labelling (Amendments) (f) Food Hygiene (Codes of Practice) (g) Methods of analysis and sampling (h) Import/export inspection and certification	ALINORM 95/21 Part I.
11. Consideration of draft and proposed draft standards and related texts for specific commodities: (a) Fish and fishery products (b) Fats and oils (c) Milk and milk products (d) Tropical fresh fruit and vegetables (e) Other products	ALINORM 95/21 Part II.
12. Consideration of proposals to elaborate new standards and/or related texts as Step 1 (a) Proposals by Codex Committee (b) Opinion of the Executive Committee (c) New proposals	ALINORM 95/21 Part III.
13. Matters arising from the reports of Codex Committees	ALINORM 95/21 Part IV.
14. Confirmation of Chairmanship of Codex Committees	ALINORM 95/16.

Item and subject matter	Document
15. Other business 16. Adoption of Report	

[FR Doc. 95–12570 Filed 5–22–95; 8:45 am]
BILLING CODE 3410–DM–M

Forest Service

Coconino National Forest, Arizona; Environmental Impact Statement (EIS) for Pocket/Baker Ecosystem

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent To Prepare an Environmental Impact Statement.

SUMMARY: The Long Valley Ranger District of the Coconino National Forest is planning to prepare an environmental impact statement on a proposal to manage lands within the Pocket/Baker Ecosystem. Some of the projects to be considered include thinning the understory in ponderosa pine stands to reduce the high levels of dwarf mistletoe infection; prescribing controlled fire for the reduction of forest fuels, nutrient cycling, and stimulation of fire dependent grasses and forbes; reconfiguring the grazing patterns of cattle to improve the range vegetation and the watershed condition; thinning of trees along state highways 87 and 260 to feature the more prominent large trees and for the reduction of shade that causes ice hazards on the roadway; reducing the use and/or improving the dispersed recreation sites for sustainable future use; reversing the declining health and vigor of remnant quaking aspen stands; restoring and protecting historic drainage structures; and closing and/or rehabilitating roads located within stream courses or their associated filter strips.

RESPONSIBLE OFFICIAL: The District Ranger, Bruce C. Greco, will be the responsible official and will select one of the alternatives presented in the environmental impact statement.

FOR FURTHER INFORMATION CONTACT: Bruce Greco, Long Valley District Ranger or John Gerritsma, Planning Team Leader at (602) 354–2216.

SUPPLEMENTARY INFORMATION: Analysis work began on the Pocket portion of the Pocket/Baker 20K in 1991. In 1993 the scope of the project was broadened to include the Baker portion to create a more logical ecosystem for analysis. The interdisciplinary planning team followed a formal NEPA evaluation process with active, detailed scoping and involvement for a wide range of interests. Because of the complexity and diversity of this ecosystem, and the potential significance of several resource issues, we are evaluating completion of the analysis through an Environmental Impact Statement (EIS). The issues include:

(1) Sustaining vegetative conditions for threatened, endangered, and sensitive species (TE&S). Many of the ponderosa pine sites are heavily infected with Southwestern dwarf mistletoe, a parasitic disease common throughout the Forest. Current tree densities needed for the Mexican spotted owl (MSO) cannot be sustained due to mortality induced by dwarf mistletoe. Harvesting trees now to reduce dwarf mistletoe infection will decrease tree crown densities, modify MSO habitat, and result in adverse effects to the proposed critical habitat of the MSO. The consequences of no treatment is also declining canopy closures as trees die, that after 30–60 years will result in the same impacts as reducing dwarf mistletoe now. In addition, delaying these treatments now will increase the costs (in dollars and environmental impacts) and reduce future options for maintaining desired conditions.

(2) Absence of fire in the ecosystem. Past aggressive fire suppression, limited prescribed burning, and incomplete treatment of forest litter has resulted in heavy forest fuels along the Mogollan Rim. Potentially catastrophic fire could occur in this area given the proximity to the communities of Pine and Strawberry, fuel loading, prevailing winds, topography, and heavy public recreation use.

(3) Treatment of small diameter ponderosa pine trees. Dense ponderosa pine sites are at a higher risk of catastrophic events such as fire and disease than less dense sites. Also, without natural or management thinning actions, trees on these sites will not grow into the desired mature yellow pines within a reasonable amount of time.

(4) Demand for recreation opportunities on the Mogollon Rim. The expressed need for an increased variety and amount of yearlong recreational activities is increasing faster than the ecosystem can handle. This situation is evident by the increasing number of people trying to play in the snow along Highway 87 each winter, almost continuous summer camping and vehicle use within meadows and the more popular camping areas, and increasing firewood cutting (both legal and illegal).

(5) Decline of aspen in the ecosystem. Aspen is declining in this ecosystem for several reasons. Lack of fire is retarding aspen sprouting and increasing competition from both grasses and other tree species. Also, the large elk populations seek out young aspen shoots, thereby limiting reproduction success. Options to reverse the declining presence of aspen are limited by environmental and social concerns.

Preparing an EIS will allow us to fully evaluate the significance of the environmental effects of these resource components and issues. Scoping for comments and field trips were previously accomplished prior to this analysis becoming an EIS. However, comments on the issues and suggestions for additional issues are welcome in response to the draft environmental impact statement which will follow this Notice of Intent, shortly. The Interdisciplinary Team will reconvene to consider new comments.

The draft environmental impact statement can be expected in June 1995. A forty-five-day comment period pursuant to 36 CFR 219.10(b) will be provided for the public to make comments on the draft environmental impact statement. A record of decision will be prepared and filed with the final environmental impact statement. A forty-five-day appeal period pursuant to 36 CFR 217.8(a) will be applicable.

The forty-five day comment period on the draft environmental impact statement will begin when the Environmental Protection Agency's Notice of Availability appears in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. To be most helpful, comments on the draft environmental impact statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft

environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

Dated: May 15, 1995.

Bruce C. Greco,

District Ranger, Long Valley Ranger District, Coconino National Forest.

[FR Doc. 95–12537 Filed 5–22–95; 8:45 am]

BILLING CODE 3410–11–M

Committee of State Foresters

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Committee of State Foresters will meet in Flatwoods, West Virginia, on June 19–20, 1995. The meeting will begin at 1 p.m. on June 19 and end at noon on June 20. The Committee is comprised of 7 members of the Executive Committee of the National Association of State Foresters. The meeting provides an opportunity for committee members to consult with the Secretary of Agriculture regarding the administration and application of various parts of the Cooperative Forestry Assistance Act of 1978. The Under Secretary for Natural Resources and Environment will chair this meeting. The meeting is open to public attendance; however, participation is limited to Forest Service personnel and Committee members. Persons who wish to bring cooperative forestry matters to the attention of the Committee may file written statements with the Executive Secretary of the Committee before or after the meeting.

DATES: The meeting will be held from June 19–20, 1995.

ADDRESSES: The meeting will be held in the conference room at the Days Inn (I–79, Exit 67), 2000 Sutton Lane, Sutton, West Virginia. Members of the public who wish to attend must register in advance with Marlene Edwards, Office of the Deputy Chief for State and Private Forestry.

Send written comments to Joan M. Comanor, Executive Secretary, Committee of State Foresters, c/o Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (202) 205–1657.

FOR FURTHER INFORMATION CONTACT: Marlene Edwards, Office of the Deputy Chief for State and Private Forestry, Forest Service, (202) 205–1657.

Dated: May 18, 1995.

Joan M. Comanor,

Deputy Chief, S&PF.

[FR Doc. 95–12578 Filed 5–22–95; 8:45 am]

BILLING CODE 3410–11–M

Western Washington Cascades Provincial Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Western Washington Cascades PIEC Advisory Committee will meet on June 14, 1995 at the Mount Baker-Snoqualmie National Forest Headquarters, 21905 64th Avenue West, in Mountlake Terrace, Washington. The meeting will begin at 9:00 a.m. and continue until 4:30 p.m. Agenda items to be covered include: (1) Discussion of federal and state watershed analysis processes; (2) discussion of agency criteria for setting watershed analysis priorities in fiscal year 1996; (3) discuss tribal activities and processes related to federal and state watershed analysis; (4) discussion of fiscal year 1995 watershed analysis opportunities; (5) other topics as appropriate; and (6) open public forum. An informational workshop on the federal watershed analysis process will precede the June 14th meeting. The workshop will be held on June 13, 1995, at Edmonds Community College, Room 202, Mountlake Terrace Hall, 20000 68th Avenue West, Lynnwood, Washington. The workshop will commence at 1:00 p.m. and continue until 4:00 p.m. that day. All Western Washington Cascades Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Bob Dunblazier, Province Liaison, USDA, Mount Baker-Snoqualmie National Forest, 21905 64th Avenue West, Mountlake Terrace, Washington 98043, 206–744–3270.

Dated: May 17, 1995.

Dennis E. Bschor,

Forest Supervisor.

[FR Doc. 95–12543 Filed 5–22–95; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Wyoming Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 1:00 p.m. on Saturday, June 17, 1995, at the Little America, 2800 W. Lincolnway, Cheyenne, Wyoming 82003. The purpose of the meeting is to brief Committee members on Commission and regional activities, discuss current civil rights issues in the State, and approve plans for future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Oralia G. Mercado, 307–472–2105 or Ki-Taek Chun, Acting Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 16, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–12557 Filed 5–22–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Regulations and Procedures Technical Advisory Committee; Notice of Meeting Change

Federal Register citation of previous announcement: p. 21792, May 3, 1995.

Previously announced time of meeting: 9:00 a.m., May 23, 1995. New time of meeting: 9:00 a.m., June 15, 1995, Room 3884.

Dated: May 19, 1995.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 95–12719 Filed 5–19–95; 12:18 pm]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Order No. 743]

Grant of Authority for Subzone Status; Merck & Co., Inc. (Pharmaceuticals); Dougherty County, Georgia

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Savannah Airport Commission, grantee of Foreign-Trade Zone 104, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facility of Merck & Co., Inc., in Dougherty County, Georgia, was filed by the Board on January 3, 1994, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 1–94, 59 FR 1925, 1–13–94); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 104A) at the plant site of Merck & Co., Inc., in Dougherty County, Georgia, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 12th day of May 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 95–12596 Filed 5–22–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 741]

Grant of Authority for Subzone Status; Merck, Sharp & Dohme Química de Puerto Rico, Inc. (Pharmaceuticals); Arecibo, Puerto Rico

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Commercial and Farm Credit and Development Corporation of Puerto Rico, grantee of Foreign-Trade Zone 61, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facility of Merck, Sharp & Dohme Química de Puerto Rico, Inc., in Arecibo, Puerto Rico, was filed by the Board on August 9, 1993, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 39–93, 58 FR 44492, 8–23–93); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 61D) at the plant site of Merck, Sharp & Dohme Química de Puerto Rico, Inc., in Arecibo, Puerto Rico, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 12th day of May 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 95–12594 Filed 5–22–95; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 742]

Grant of Authority for Subzone Status; Merck, Sharp & Dohme Química de Puerto Rico, Inc. (Pharmaceuticals); Barceloneta, Puerto Rico

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Commercial and Farm Credit and Development Corporation of Puerto Rico, grantee of Foreign-Trade Zone 61, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing facility of Merck, Sharp & Dohme Química de Puerto Rico, Inc., in Barceloneta, Puerto Rico, was filed by the Board on August 30, 1993, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 49–93, 58 FR 47858, 9–13–93); and,

Whereas, the Board has found that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby authorizes the establishment of a subzone (Subzone 61E) at the plant site of Merck, Sharp & Dohme Química de Puerto Rico, Inc., in Barceloneta, Puerto Rico, at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 12th day of May 1995.

Susan G. Esserman,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 95–12595 Filed 5–22–95; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration

Initiation of New Shipper Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of New Shipper Antidumping Duty Administrative Reviews.

SUMMARY: The Department of Commerce (the Department) has received a request to conduct new shipper administrative reviews of an antidumping duty order with an April anniversary date. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: May 23, 1995.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received a request, in accordance with 19 CFR 353.22(h) (1995), for new shipper reviews of an antidumping duty order with an April anniversary date.

Initiation of Reviews

In accordance with 19 CFR 353.22(h), we are initiating two new shipper reviews of the antidumping duty order on fresh and chilled Atlantic salmon from Norway. We intend to issue the final results of these reviews not later than February 9, 1996.

Antidumping duty proceeding	Period to be reviewed
Norway:	
Fresh and Chilled Atlantic Salmon	
A–403–801	
Cocoon Ltd. A/S; Nordic Group A/L	11/01/94–04/30/95

Concurrent with publication of this notice, we will instruct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, of a bond or sucurity in lieu of a cash deposit for each entry of the merchandise (19 CFR 353.22(h)(3)(ii)(B)(4) (1995)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(h).

Dated: May 17, 1995.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 95–12593 Filed 5–22–95; 8:45 am]

BILLING CODE 3510–DS–M

National Institute of Standards and Technology

Announcement of a Meeting to Discuss an Opportunity to Join a Cooperative Research and Development Consortium for Accelerated Wear Resistance Screening Tests for Orthopedic Joint Replacement Implant Materials

AGENCY: National Institute of Standards and Technology.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) invites interested parties to attend a meeting on July 6, 1995 to discuss the possibility of setting up a cooperative research consortium on the development of methods to accelerate the evaluation of wear resistance of orthopedic hip and knee implant materials. Parties interested in participating in the consortium should be prepared to invest adequate resources in the collaboration and be firmly committed to the goal of developing new accelerated wear evaluation technology.

Any program undertaken will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Pub. L. 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may provide ''personnel, service, facilities, equipment or other resources with or without reimbursement (but not funds to non-federal parties)''—to the cooperative research program.

The meeting will be held on July 6, 1995 at 8:30 a.m., Room A315, Building 224 at NIST in Gaithersburg, MD, for interested parties. The meeting will discuss the possible formation of a research consortium including NIST and orthopedic industry to conduct research in this area. This is not a grant program.

DATES: The meeting will be held on July 6, 1995. Interested parties should contact NIST to confirm their attendance at the address, telephone number or FAX number shown below no later than June 22, 1995.

ADDRESSES: The meeting will held at 8:30 a.m., Room A315, Building 224, National Institute of Standards and Technology, Gaithersburg, MD.

FOR FURTHER INFORMATION CONTACT: Dr. John A. Tesk, Building 224, Room A143, National Institute of Standards and Technology, Gaithersburg, MD 20899. Telephone: 301–975–6799; FAX: 301–963–9143; e-mail: tesk@ micf.nist.gov.

Dated: May 16, 1995.

Raymond G. Kammer,

Deputy Director.

[FR Doc. 95–12548 Filed 5–22–95; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Bilateral Textile Consultations on Men's and Boys' Wool Coats Other Than Suit Type

May 17, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen (India) and Anne Novak (Brazil), International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Under the terms of Article 6 of the Uruguay Round Agreement on Textiles and Clothing (ATC) and the Uruguay Round Agreements Act, the Government of the United States requested consultations, on April 18, 1995 and April 26, 1995, respectively, with the Governments of India and the Federative Republic of Brazil with respect to men's and boys' wool coats other than suit type in Category 434, produced or manufactured in India and Brazil.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of India and the Government of the Federative Republic of Brazil, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of wool textile products in Category 434, produced or manufactured in India and Brazil and exported during the twelve-month period April 18, 1995 through April 17, 1996, at a level of not less than 45,750 dozen, in the case of India, and exported during the twelve-month period April 26, 1995 through April 25, 1996, at a level of not less than 9,519 dozen, in the case of Brazil. On April 18, 1995, CITA dropped its request for consultations with India on Category 434 that was made on December 30, 1994 (see 60 FR 5653, published on January 30, 1995) and resubmitted the request under Article 6 of the ATC.

A summary statement of serious damage concerning Category 434 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 434, or to comment on domestic production or availability of products included in Category 434, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of India and the Government of the Federative Republic of Brazil.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute ''a foreign affairs function of the United States.''

The United States remains committed to finding a solution concerning Category 434. Should such a solution be reached in consultations with the Governments of India and the Federative Republic of Brazil, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Statement of Serious Damage

Men's and Boys' Wool Coats Other Than Suit Type—Category 434

April 1995

The sharp and substantial increase in imports of men's and boys' wool coats other than suit type, Category 434, is causing serious damage to the U.S. industry producing men's and boys' wool coats other than suit type.

U.S. imports of men's and boys' wool coats other than suit type, Category 434, surged to 189,180 dozen in the year ending January 1995, 40 percent above the same period a year earlier.

Serious damage to the domestic industry resulting from the sharp and substantial increase in imports of men's and boys' wool coats other than suit type is attributed to India and Brazil. The combination of high import levels, surging imports, and low priced goods from these countries have resulted in loss of domestic output, market share, investment, employment, man-hours worked, and total annual wages.

Total imports from the two countries listed above increased from 31,371 dozen in the year ending January 1994 to 55,269 dozen in the twelve months ending in January 1995, a sharp and substantial increase of 76 percent. Together their year ending January 1994 imports were 23 percent of total Category 434 imports. Their share of total category imports increased to 29 percent in the year ending January 1995. Their year ending January 1995 imports were 36 percent of total U.S. production of men's and boys' non-suit type wool coats in the year ending September 1994.

[FR Doc. 95–12600 Filed 5–22–95; 8:45 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations on Woven Wool Shirts and Blouses

April 17, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen (India) and Anne Novak (Hong Kong), International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Under the terms of Article 6 of the Uruguay Round Agreement on Textiles and Clothing (ATC) and the Uruguay Round Agreements Act, the Government of the United States requested consultations, on April 18, 1995 and April 27, 1995, respectively, with the Governments of India and the Hong Kong with respect to woven wool shirts and blouses in Category 440, produced or manufactured in India and Hong Kong.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of India and the Government of Hong Kong, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of wool textile products in Category 440, produced or manufactured in India and Hong Kong and exported during the twelve-month period April 18, 1995 through April 17, 1996, at a level of not less than 76,698 dozen, in the case of India, and exported during the twelve-month period April 27, 1995 through April 26, 1996, at a level of not less than

5,428 dozen, in the case of Hong Kong. On April 18, 1995, CITA dropped its request for consultations with India on Category 440 that was made on December 30, 1994 (see 60 FR 5653, published on January 30, 1995) and resubmitted the request under Article 6 of the ATC.

A summary statement of serious damage concerning Category 440 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 440, or to comment on domestic production or availability of products included in Category 440, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of India and the Government of Hong Kong.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute ''a foreign affairs function of the United States.''

The United States remains committed to finding a solution concerning Category 440. Should such a solution be reached in consultations with the Governments of India and Hong Kong, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Summary Statement of Serious Damage

Woven Wool Shirts and Blouses—Category 440

April 1995

The sharp and substantial increase in imports of woven wool shirts and blouses, Category 440, is causing serious damage to the U.S. industry producing woven wool shirts and blouses.

Category 440 imports surged to 141,502 dozen in the year ending January 1995, nearly double the year ending January 1994 level.

Serious damage to the domestic industry resulting from the sharp and substantial increase in imports of woven wool shirts and blouses is attributed to India and Hong Kong. The combination of high import levels, surging imports, and low priced goods from these countries have resulted in loss of domestic output, market share, investment, employment, man-hours worked, and total annual wages.

Total imports from these two countries increased from 17,687 dozen in the year ending January 1994 to 82,126 dozen in the twelve months ending in January 1995, a sharp and substantial increase of 364 percent. Together their year ending January 1994 imports were 24 percent of total Category 440 imports. Their share of total category imports increased to 58 percent in the year ending January 1995. Their year ending January 1995 imports were 107 percent of total U.S. production of woven wool shirts and blouses in the year ending September 1994.

[FR Doc. 95–12601 Filed 5–22–95; 8:45 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations on Women's and Girls' Wool Coats

May 17, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen (India) and Jennifer Aldrich (Honduras), International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Under the terms of Article 6 of the Uruguay Round Agreement on Textiles and Clothing (ATC) and the Uruguay Round Agreements Act, the Government of the United States requested consultations, on April 18, 1995 and April 24, 1995, respectively, with the Governments of India and Honduras with respect to women's and girls' wool coats in Category 435, produced or manufactured in India and Honduras.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of India and the Government of Honduras, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of wool textile products in Category 435, produced or manufactured in India and Honduras and exported during the twelve-month period April 18, 1995 through April 17, 1996, at a level of not less than 37,487 dozen, in the case of India, and exported during the twelve-month period April 24, 1995 through April 23, 1996, at a level of not less than 14,400 dozen, in the case of Honduras. On April 18, 1995, CITA dropped its request for consultations with India on Category 435 that was made on December 30, 1994 (see 60 FR 5653, published on January 30, 1995) and resubmitted the request under Article 6 of the ATC.

A summary statement of serious damage concerning Category 435 follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 435, or to comment on domestic production or availability of products included in Category 435, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of India and the Government of Honduras.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce,

14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute ''a foreign affairs function of the United States.''

The United States remains committed to finding a solution concerning Category 435. Should such a solution be reached in consultations with the Governments of India and Honduras, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Summary Statement of Serious Damage

Women's and Girls' Wool Coats—Category 435

April 1995

The sharp and substantial increase in imports of women's and girls' wool coats, Category 435, is causing serious damage to the U.S. industry producing women's and girls' wool coats.

Category 435 imports surged to 1,206,632 dozen in the year ending January 1995, 9 percent above the year ending January 1994 level.

Serious damage to the domestic industry resulting from the sharp and substantial increase in imports of women's and girls' wool coats is attributed to India and Honduras. In both cases surging imports and low priced goods have resulted in loss of domestic output, market share, investment, employment, man-hours worked, and total annual wages.

Total imports from these two countries increased from 10,366 dozen in the year ending January 1994 to 51,887 dozen in the twelve months ending in January 1995, a sharp and substantial increase of 400 percent. Together their year ending January 1994 imports were 0.9 percent of total Category 435 imports. Their share of total category imports increased to 4.3 percent in the year ending January 1995. Their year ending January 1995 imports were 5.7 percent of total U.S. production of women's and girls' wool coats in the year ending September 1994.

[FR Doc. 95–12603 Filed 5–22–95; 8:45 am]

BILLING CODE 3510–DR–F

Request for Public Comments on Bilateral Textile Consultations on Man-Made Fiber Luggage

May 17, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen (Philippines), Helen L. LeGrande (Sri Lanka) and Ross Arnold (Thailand), International Trade Specialists, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on categories for which consultations have been requested, call (202) 482–3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Under the terms of Article 6 of the Uruguay Round Agreement on Textiles and Clothing (ATC) and the Uruguay Round Agreements Act, the Government of the United States requested consultations, on April 24, 1995 (Philippines) and April 27, 1995 (Sri Lanka and Thailand), with the Governments of the Philippines, the Democratic Socialist Republic of Sri Lanka and Thailand with respect to man-made fiber luggage in Category 670–L, produced or manufactured in the Philippines, Sri Lanka and Thailand.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with the Government of the Philippines and the Government of the Democratic Socialist Republic of Sri Lanka and the Government of Thailand, the Committee for the Implementation of Textile Agreements may later establish a limit for the entry and withdrawal from warehouse for consumption of man-made fiber textile products in Category 670–L, produced or manufactured in the Philippines, Sri Lanka and Thailand and exported during the twelve-month period April 24, 1995 through April 23, 1996, at a level of not less than 7,718,533 kilograms, in the case of the Philippines; exported during the twelve-month period April 27, 1995 through April 26, 1996, at a level of not less than 3,420,904 kilograms, in the case of Sri Lanka; and exported during the twelve-month period April 27, 1995 through April 26, 1996, at a level of not less than 19,792,859 kilograms, in the case of Thailand. On April 27, 1995, CITA dropped its request for consultations with Thailand on Category 670–L that was made on November 28, 1994 (see 60 FR 2081, published on January 6, 1995) and resubmitted the request under Article 6 of the ATC.

A summary statement of serious damage concerning Category 670–L follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 670–L, or to comment on domestic production or availability of products included in Category 670–L, is invited to submit 10 copies of such comments or information to Rita D. Hayes, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande. The comments received will be considered in the context of the consultations with the Government of the Philippines, the Government of the Democratic Socialist Republic of Sri Lanka and the Government of Thailand.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute ''a foreign affairs function of the United States.''

The United States remains committed to finding a solution concerning Category 670–L. Should such a solution be reached in consultations with the Governments of the Philippines, Sri Lanka and Thailand, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff

Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994).

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Summary Statement of Serious Damage

Manmade Fiber Luggage—Category 670–L

April 1995

The sharp and substantial increase in imports of manmade fiber luggage, Category 670–L, is causing serious damage to the U.S. industry producing manmade fiber luggage.

Manmade fiber luggage imports, Category 670–L, increased from 72,550,000 kilograms in 1992 to 77,238,000 kilograms in 1993, a six percent increase. Manmade fiber luggage imports, Category 670–L, continued to increase in 1994 and 1995, reaching 87,413,000 kilograms during year ending January 1995, 13 percent above the year ending January 1994 level and 20 percent above the 1992 level.

Serious damage to the domestic industry resulting from the sharp and substantial increase in imports of manmade fiber luggage is attributed to imports from Thailand, Philippines and Sri Lanka. The combination of high import levels, surging imports and low priced luggage from these countries have resulted in loss of domestic output, market share, investment, employment, and man-hours worked.

Total imports of manmade fiber luggage, Category 670–L, from the three countries listed above increased from 24,069,000 kilograms in the year ending January 1994 to 30,932,000 kilograms in the twelve months ending in January 1995, a sharp and substantial increase of 29 percent. Together their year ending January 1994 imports were 31 percent of total U.S. imports in Category 670–L. Their share of total Category 670–L imports increased to 35 percent in the year ending January 1995. Their year ending January 1995 imports, measured in kilograms of fabric content, were 102 percent of total 1994 U.S. production of manmade fiber luggage.

[FR Doc. 95–12602 Filed 5–22–95; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel on Reduced Manning will meet on May 23 and 24, 1995. The meeting will be held at the Office of Naval Research, 800 North Quincy Street, Room 915, Ballston Center Tower One, Arlington, Virginia. The first session will commence at 10:00 a.m. and terminate at 5:00 p.m. on May 23; the second session will commence at 8:00 a.m. and terminate at 5:00 p.m. on May 24, 1995. All sessions of the meeting will be open to the public.

The purpose of the meeting is to provide the Navy with an assessment of the force structure and ship concepts which would require a minimum manning level with a goal of 25% reduction of current manning.

The meeting will include briefings and discussions relating to ship systems automation, shipboard manning, manpower planning, damage control, and lessons learned.

This Notice is being published late because of administrative delays which constitute an exceptional circumstance, not allowing Notice to be published in the **Federal Register** at least 15 days before the date of the meeting.

For further information concerning this meeting contact:Ms. Diane Mason-Muir, Office of Naval Research, Ballston Center Tower One, 800 North Quincy Street, Arlington, VA 22217-5660, Telephone Number: (703) 696-4870.

Dated: May 11, 1995

M. D. SCHETZSLE,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 95-12650 Filed 5–22–95; 8:45 am]

BILLING CODE 3810–AE–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADIMINISTRATION

[OMB Control No. 9000–0088]

Clearance Request for Travel Costs

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0088).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Travel Costs.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 31.205–46, Travel Costs, requires that, except in extraordinary and temporary situations, costs incurred by a contractor for lodging, meals, and incidental expenses shall be considered to be reasonable and allowable only to the extent that they do not exceed on a daily basis the per diem rates in effect as of the time of travel as set forth in the Federal Travel Regulation for travel in the conterminous 48 United States, the Joint Travel Regulations, Volume 2, Appendix A, for travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, and territories and possessions of the United States, and the Department of State Standardized Regulations, section 925, ''Maximum Travel Per Diem Allowances for Foreign Areas.'' The burden generated by this coverage is in the form of the contractor preparing a justification whenever a higher actual expense reimbursement method is used.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *15 minutes* per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th and F Streets, NW., Room 4037, Washington, DC 20405.

The annual reporting burden is estimated as follows: Respondents, *16,000;* responses per respondent, *10;* total annual responses, *160,000;* preparation hours per response, *.25;* and total response burden hours, *40,000.*

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0088, Travel Costs, in all correspondents.

Dated: May 12, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–12534 Filed 5–22–95; 8:45 am]

BILLING CODE 6820–EP–M

[OMB Control No. 9000–0095]

Clearance Request for Commerce Patent Regulations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0095).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Commerce Patent Regulations, Public Law 98–620.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

As a result of the Department of Commerce (Commerce) publishing a final rule in the **Federal Register** implementing Public Law 98–620 (52 FR 8552, March 18, 1987), a revision to FAR subpart 27.3 to implement the Commerce regulation was published in the **Federal Register** as an interim rule on June 12, 1989 (54 FR 25060).

A Government contractor must report all subject inventions to the contracting officer, submit a disclosure of the invention, and identify any publication, or sale, or public use of the invention (52.227–11(c), 52.228–12(c), and 52.227–13(e)(2)). Contractors are required to submit periodic or interim and final reports listing subject inventions (27.303(a); 27.304–1(e)(1) (i) and (ii); 27.304–1(e)(2) (i) and (ii); 52.227–12(f)(7); 52.227–14(e)(3)). In order to ensure that subject inventions are reported, the contractor is required to establish and maintain effective procedures for identifying and disclosing subject inventions (52.227–11, Alternate IV; 52.227–12(f)(5); 52.227–13(e)(1)). In addition, the contractor must require his employees, by written agreements, to disclose subject inventions (52.227–11(f)(2); 52.227–12(f)(2); 52.227–13(e)(4)). The contractor also has an obligation to utilize the subject invention, and agree to report, upon request, the utilization or efforts to utilize the subject invention (27.302(e); 52.227–11(h); 52.227–12(h)).

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 3.9 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4037, Washington, DC 20405.

The annual reporting burden is estimated as follows: Respondents, 1,200; responses per respondent, 9.75; total annual responses, 11,700; preparation hours per response, 3.9; and total response burden hours, 45,630.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0095, Commerce Patent Regulations, in all correspondence.

Dated: April 12, 1995.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 95–12535 Filed 5–22–95; 8:45 am]

BILLING CODE 6820–EP–M

DEPARTMENT OF EDUCATION

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Educational Research Policy and Priorities Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the general public of their opportunity to attend the open portions of the meeting.

DATES: June 8 and 9, 1995.

TIMES: June 8, 1995, 8 a.m. to 5 p.m. (open). June 9, 1995, 8 a.m. to approximately 9 a.m. (closed); approximately 9 a.m. to 3 p.m. (open).

LOCATION: Association of American Railroads Conference Center, Rooms A and B, Fourth Floor, 50 F St., NW., Washington, DC 20001. On June 8, from approximately 10 a.m. to 11:30 a.m. only, the meeting will move to room 326, 555 New Jersey Ave., NW.

FOR FURTHER INFORMATION CONTACT: John Christensen, Designated Federal Official, Office of Educational Research and Improvement, 555 New Jersey Ave., NW., Washington, DC 20208–7579. Telephone: (202) 219–2065.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office.

The meeting of the Board is open to the public, except for a portion which will be closed on June 9 from 8 a.m. to approximately 9 a.m. The proposed agenda on June 8 includes subcommittee reports, a meeting with representatives from educational associations, and reports on research and development center priorities and on standards for the evaluation of research, and discussion of the research priorities plan.

On June 9 the Board will consider personnel, organizational, and business matters and develop approaches to a research agenda. The meeting will be closed to the public from 8 a.m. to approximately 9 a.m. under the authority of Section 10(d) of the Federal Advisory Committee Act and under exemptions (2) and (6) of Section 552b(c) of Title 5 U.S.C. to discuss the procedure for the selection of an executive director. The Board will consider matters that relate solely to the internal personnel rules and practices of the Board and also to the personal qualifications and experience of potential candidates for this position, matters that would disclose information of a personal nature where disclosure

would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A final agenda will be available from the Board office on June 1, 1995.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings, and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, 555 New Jersey Ave., NW., Washington, DC 20208–7564.

Dated: May 17, 1995.

Sharon P. Robinson,

Assistant Secretary.

[FR Doc. 95–12516 Filed 5–22–95; 8:45 am]

BILLING CODE 4000–01–M

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

AGENCY: Notice of Achievement Levels Committee Teleconference meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference meeting of the Achievement Levels Committees of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: June 12, 1995.

TIME: 2:00 P.M. (e.t.), until adjournment, approximately, 3:30 p.m., (open).

LOCATION: 800 North Capitol Street, NW., Suite 825, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW., Washington, D.C. 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On June 12, the Achievement Levels Committee will hold a teleconference meeting beginning at 2:00 p.m. The purpose of this meeting is to select (1) exemplar items for the 1994 U.S. history and world geography reports, and (2) exemplar items for the 1994 reading report. Other agenda items include consideration of a report from NCES on technical issues in performance assessments, and discussion of the Advisory Council on Education Statistics document on standards.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., from 8:30 a.m. to 5:00 p.m.

Dated: May 18, 1995.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 95–12547 Filed 5–22–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP95–493–000, et al.]

Columbia Gas Transmission Corporation, et al.; Natural Gas Certificate Filings

May 16, 1995.

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corporation

[Docket No. CP95–493–000]

Take notice that on May 11, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP95–493–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate the facilities necessary to establish thirteen new points of delivery to existing customers for firm transportation service under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to construct and operate twelve new points of delivery to Mountaineer Gas Company (MGC) all of which would be located in West Virginia and would have a total estimated design day and annual quantity of 18 Dth and 1,800 Dth, respectively. In addition, Columbia proposes to construct and operate one new point of delivery to West Ohio Gas Company (WOG) which would be located in Ohio and would have an estimated design day and annual quantity of 3 Dth and 175 Dth, respectively. Columbia states that the new points of delivery would allow MGC and WOG to serve residential customers.

Columbia states that the quantities to be provided through the new delivery points will be within Columbia's authorized level of services and, therefore, there is no impact on Columbia's existing design day and annual obligations to the customers as a result of the construction and operation of the new points of delivery for firm transportation service.

Columbia estimates that the cost to install the new taps to be approximately $150 per tap which will be treated as an O&M expense.

Columbia states that it will comply with all of the environmental requirements of § 157.206(d) of the Commission's regulations prior to the construction of any facilities.

Comment date: June 30, 1995, in accordance with Standard Paragraph G at the end of this notice.

2. Panhandle Eastern Pipe Line Company

[Docket No. CP95–496–000]

Take notice that on May 12, 1995, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP95–496–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon in place approximately 5,330 feet of 18-inch pipeline under Panhandle's blanket certificate issued in Docket No. CP83–83–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Panhandle proposes to abandon in place approximately 5,300 feet of 18-inch pipeline. In conjunction with the proposed abandonment Panhandle will perform additional work under its blanket certificate and § 157.208(a)(1) of the Commission's Regulations to install approximately 8,550 feet of new 18-inch

pipeline. The facilities are located in Oakland County, Michigan.

Comment date: June 30, 1995, in accordance with Standard Paragraph G at the end of this notice.

3. Algonquin Gas Transmission Company

[Docket No. CP95–497–000]

Take notice that on May 10, 1995, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, MA 02135, filed in Docket No. CP95–497–000 a request pursuant to Section 7 of the Natural Gas Act, as amended, and §§ 157.205, 157.212, 157.216(b) for authorization to construct and operate certain appurtenant facilities at its existing Ponkapoag meter station in connection with volumes to be delivered to Boston Gas Company (Boston Gas) at the Ponkapoag delivery point in Milton, Massachusetts and to abandon the facilities that are replaced by the new facilities. This request is made in accordance with the authority granted to Algonquin in its blanket certificate issued in Docket No. CP87–317–000 pursuant to 18 CFR Part 157, Subpart F of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open for public inspection.

Algonquin states that Boston Gas has requested and Algonquin has agreed to construct appurtenant facilities at an existing meter station, at an estimated cost of $1,596,600. Algonquin would install additional heaters in the meter station yard and replace pressure regulators, headers and meter runs. It is stated that construction activities would be within the existing fenced area at the meter station site in previously disturbed areas. It is further stated that Boston Gas would reimburse Algonquin for costs incurred in installing the facilities.

Comment date: June 30, 1995, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12522 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–802–000]

IEP Power Marketing, L.L.C.; Notice of Issuance of Order

May 17, 1995.

On March 22 and April 4, 1995, IEP Power Marketing, L.L.C. (IPM) submitted for filing a rate schedule under which IPM will engage in wholesale electric power and energy transactions as a marketer. IPM also requested waiver of various Commission regulations. In particular, IPM requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by IPM.

On May 11, 1995, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by IPM should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, IPM is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of IPM's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 12, 1995.

Copies of the full text of the order are available from the Commission's Public Reference Branch, Room 3308, 941 North Capitol Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12523 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–245–001]

Koch Gateway Pipeline Company; Notice of Compliance Filing

May 17, 1995.

Take notice that on May 15, 1995, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing as part of its FERC Gas Tariff Fifth Revised Volume No. 1, the following tariff sheets, to be effective May 4, 1995:

Second Revised Sheet No. 3606

Koch Gateway states that on May 5, 1995, the Office of Pipeline Regulation (OPR) issued a Letter Order in the above captioned proceeding. Pursuant to that Letter Order, Koch Gateway was directed to file within 10 days to correct pagination on Tariff Sheet No. 3606. Accordingly, Koch Gateway has revised the pagination to delete First Revised Sheet No. 3606, which has previously been approved by the Commission, and added Second Revised Sheet No. 3606.

Koch Gateway also states that the tariff sheets are being mailed to all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with § 385.211 of the Commission's Regulations. All such protests should be filed on or before May 24, 1995. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12524 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–495–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

May 17, 1995.

Take notice that on May 12, 1995, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–495–000 a request pursuant to §§ 157.205 and 157.211 and 216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 216) for authorization to abandon, replace, and relocate certain facilities on Line 3, 4–H, and 4–14 under NGT's blanket certificate issued in Docket No. CP82–384–000, *et al.*, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, NGT proposes to:

(1) Abandon twenty eight 1-inch rural domestic taps on Lines 3 and 4–H and to install three taps on Line 4–1–4 at a construction cost of $4,454;

(2) Abandon the Hunter Town Border Station on Line 3 and relocate it on Line 4–14 at a construction cost of $28,540;

(3) Abandon and relocate the Garber Regulator Station on Line 4–A at a construction cost of $17,673; and

(4) Abandon the Pond Creek Regulator Station on Line 4–1–4 and replace and relocate it on Line 4–B (Extension) at a construction cost of $14,672.

Arkla will reimburse NGT for the costs associated with the taps to be installed on Line 4–1–4.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12525 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER95–357–000]

Northeast Utilities Service Company; Notice of Filing

May 17, 1995.

Take notice that on March 31, 1995, Northeast Utilities Service Company (NUSCO) tendered for filing on behalf of The Connecticut Light and Power Company (CL&P), Western Massachusetts Electric Company (WMECO), Holyoke Water Power Company (HWP), Holyoke Power and Electric Company and Public Service Company of New Hampshire (together, the NU System Companies) clarification of the formula for the determination of operation and maintenance expense contained in Schedule B to the Distribution Service Agreement previously filed by NUSCO in the above-referenced docket.

NUSCO renews its request that the proposed rate schedule changes be permitted to become effective January 1, 1995. NUSCO states that a copy of the filing has been mailed or delivered to the affected parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 26, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12526 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–206–003]

Northern Natural Gas Company; Notice of Technical Conference

May 17, 1995.

In the Commission's order issued March 10, 1995, the Commission held that the filing in the above captioned proceeding raises issues that should be addressed in a technical conference.

Take notice that the technical conference will be held on Thursday May 25, 1995, at 1:00 p.m., in Room 2402–A at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. All interested parties and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12527 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP94–416–000]

Northern Natural Gas Company; Notice of Technical Conference

May 17, 1995.

In the Commission's order issued February 15, 1995, the Commission held that the filing in the above captioned proceeding raises issues that should be addressed in a technical conference.

Take notice that the technical conference will be held on Thursday, May 25, 1995, at 2:00 p.m., Room 2402–A at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington D.C. 20426. All interested parties and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12528 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–297–000]

Northwest Alaskan Pipeline Company; Notice of Tariff Changes

May 17, 1995.

Take notice that on May 15, 1995, Northwest Alaskan Pipeline Company (Northwest Alaskan), tendered for filing in Docket No. RP95–297–000 to become part of its FERC Gas Tariff Original Volume No. 2, Thirty-Sixth Revised Sheet No. 5.

Northwest Alaskan states that it is submitting Thirty-Sixth Revised Sheet No. 5 reflecting a decrease in total demand charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. (Pan-Alberta) and resold to Northwest Alaskan's two U.S. purchasers, Pan-Alberta Gas (U.S.), Inc. (''PAG–US'') under Rate Schedules X–1, X–2 and X–3, and Pacific Interstate Transmission Company (''PIT'') under Rate Schedule X–4.

Northwest Alaskan states that it is submitting Thirty-Sixth Revised Sheet No. 5 pursuant to the provisions of the amended purchase agreements between Northwest Alaskan and PAG–US and PIT, and pursuant to Rate Schedules X–1, X–2, X–3 and X–4, which provide for Northwest Alaskan to file 45 days prior to the commencement of the next demand charge period (July 1, 1995

through December 31, 1995) the demand charges and demand charge adjustments which Northwest Alaskan will charge during the period.

Northwest Alaskan requests that Thirty-Sixth Revised Sheet No. 5 become effective July 1, 1995.

Northwest Alaskan States that a copy of this filing has been served on Northwest Alaskan's customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before May 24, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12529 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–217–001]

Trunkline Gas Company; Notice of Compliance Filing

May 17, 1995.

Take notice that on May 12, 1995, Trunkline Gas Company (Trunkline) tendered for filing revised working papers reflecting its Initial Stranded Transportation (IST) Cost Surcharge reconciliation to reflect the calculation of interest on excess recoveries in compliance with Ordering Paragraph (C) of the Commission's Order of April 27, 1995 in Docket No. RP95–217–000.

Trunkline states that copies of this filing have been served on all affected customers and applicable state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before May 24, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12530 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–3–004]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

May 17, 1995.

Take notice that on May 12, 1995, William Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Sheet No. 11, Second Substitute First Revised Sheet No. 12. The proposed effective date of this tariff sheet is November 5, 1994.

WNG states that this filing is being made in compliance with Commission order issued May 2, 1995 in Docket No. RP95–3. WNG was directed by the order to file, within 30 days of the issuance of the order, actual tariff sheets reflecting the $35 million direct bill that eliminates the small municipal customers identified in WNG's Small Customer Settlement filed October 5, 1994, in Docket No. RP95–3–001.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before May 24, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12531 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–296–000]

Williams Natural Gas Co.; Notice of Proposed Changes in FERC Gas Tariff

May 17, 1995.

Take notice that on May 12, 1995, Williams Natural Gas Company (WNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Sheet No. 253. The proposed effective date of this tariff sheet is June 15, 1995.

WNG states that the purpose of the instant filing is to amend Article 14 of the General Terms and Conditions of WNG's FERC Gas Tariff to provide for the extension of WNG's pricing differential mechanism (PDM) until October 1, 1997. The Commission has previously held that PDMs will continue for two years from the effective date of Order No. 636 restructuring. While WNG's FERC Gas Tariff does not explicitly so provide, WNG's PDM would expire on October 1, 1995.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before May 24, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12532 Filed 5–22–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5197–9]

Regulatory Reinvention (XL) Pilot Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Solicitation of proposals and request for comment.

SUMMARY: EPA is announcing a set of actions to give regulated sources the flexibility to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce greater environmental benefits. This document announces three of EPA's regulatory

reinvention pilot programs: the XL program for facilities; the industry-wide or sector-based XL program; and XL program dealing with government agencies regulated by EPA. EPA invites private and public entities or groups of entities regulated by EPA under its various statutory authorities to submit proposals in these areas. Proposals for a fourth area—the community-based XL program—will be accepted at a later time. This document also invites interested members of the public to comment on all aspects of these programs. The document responds to President Clinton's announcement, contained in the March 16, 1995, document Reinventing Environmental Regulation, that EPA would implement pilot programs to develop innovative alternatives to the current regulatory system. EPA has set a goal of implementing a total of fifty projects in the four program areas. Each project will involve the exercise of regulatory flexibility by EPA in exchange for a commitment on the part of the regulated entity to achieve better environmental results than would have been attained through full compliance with all applicable regulations. This program will be undertaken in full partnership with the states. These pilots complement EPA's ongoing regulatory reinvention activities, including the Common Sense Initiative and the Environmental Leadership Program. This summer, EPA will select up to six project proposals and begin the development of a final project agreement. Final Project Agreements for the remaining pilots will be based on EPA's learning experience on the initial projects.

The document includes background information on the programs; a description of the programs; their relationship to other regulatory reinvention activities; the criteria, process, and timing for the selection of projects; an invitation for public comment; and the Information Collection Request document required by the Paperwork Reduction Act.

DATES: The period for submission of proposals will begin upon EPA's announcement in the **Federal Register** that clearance has been obtained under the Paperwork Reduction Act, allowing EPA to accept proposals. This will be an open solicitation with no set end date, and project proponents may submit more than one project proposal. The period for comment on all aspects of the programs will begin with publication of this document and extend for thirty days. The period for comment on the attached Information Collection Request will begin with the publication of this document and extend for ten days.

ADDRESSES: Project proposals and all comments should be sent to: Regulatory Reinvention Pilot Projects, FRL–5197–9, Water Docket, Mail Code 4101, US EPA, 401 M Street, SW., Washington, DC, 20460. The docket accepts no faxes. In addition to providing general information about the proposed project, project proponents are encouraged to comment on the relationship of their proposals to the criteria for project selection described in this notice. Proponents of projects are invited, but by no means required, to submit other useful materials in paper or other audio/visual or electronic formats.

FOR FURTHER INFORMATION CONTACT: Jon Kessler, Office of Policy, Planning and Evaluation; United States Environmental Protection Agency; West Tower 1013; 401 M Street, SW.; Mail Code 2111; Washington, DC, 20460. The telephone number for the Office is (202) 260–4034. The facsimile number is (202) 401–6637.

SUPPLEMENTARY INFORMATION:

Background

Over the last two years, the Environmental Protection Agency has charted a course designed to demonstrate that environmental goals can best be achieved by providing regulatory and policy flexibility while maintaining accountability, that flexibility can also provide greater protection at a lower cost, that better decisions result from a collaborative process with people working together, and that environmental solutions are often achieved by focusing efforts at the facility or place where protection is being sought. EPA has found that allowing facilities, communities, and other entities to explore non-traditional pollution control solutions can result in regulated entities achieving environmental protection results beyond those anticipated by current regulations or policies. Often these alternative approaches can produce cheaper, more efficient results as well.

Description of the Programs

On March 16, 1995, the President announced as part of his National Performance Review regulatory reinvention initiative that EPA would develop a set of pilot projects that provide the flexibility to test alternative strategies to achieve environmental goals. The initiative will give a limited number of regulated entities an opportunity to demonstrate excellence and leadership. They will be given the flexibility to develop alternative strategies that will replace or modify specific regulatory requirements on the condition that they produce greater environmental benefits. In exchange for greater flexibility, regulated entities will be held to a higher standard of accountability for demonstrating project results. This **Federal Register** Notice is a solicitation for pilot project proposals in the three general areas: Industry-wide projects (XL for Sectors); facility based projects (XL for Facilities); and government agency projects (XL for Government). Proposals are invited from groups of firms in an industry, individual regulated facilities, and government agencies regulated by EPA.

These projects will require the participation of state and tribal regulatory agencies. In most cases, these agencies are full partners with EPA as they implement EPA programs that have been delegated to them. EPA is taking a decentralized or ''franchising'' approach to the implementation of XL programs. Under this approach, individual projects will be managed in most cases by the units of government that are best suited to address the issues raised by the projects. These may be state or tribal environmental agencies that are co-regulators with EPA, EPA headquarters, or EPA regional offices. As they develop project proposals, project proponents should coordinate with and gain the support of their state and tribal environmental agencies that have regulatory responsibility within the scope of the project. In addition to their role as co-regulators, these same agencies, as well as other local government agencies, are major stakeholders in the management of environmental quality. As such, their support for project proposals should be sought in any case.

Selection and participation in the program will proceed as indicated in the flow chart that follows. EPA expects that there will be competition among project proponents for acceptance into the program. The first stage in the process begins with the publication of this notice. Those who have projects meeting the listed criteria are encouraged to submit initial project proposals. EPA will then review submissions to select those that do most to advance the purposes of this program. An internal review process has been established to evaluate proposals submitted in response to this notice. This group, consisting of representatives of state and tribal environmental agencies as well as EPA headquarters and regional offices, will screen all proposals, considering the criteria described in this notice, and recommend proposals for further

development. The group may also seek additional comment from relevant local environmental officials.

Based on the recommendations of the review group, EPA will invite particular project proponents to join with state or tribal environmental agencies as well as other coregulators, to develop a Final Project Agreement. EPA will encourage project proponents at this stage to incorporate their project plans into the overall strategic plan of the business entity. In any case, the responsibility for developing detailed project plans that address the program criteria will be with the project proponents. Only the signing of a Final Project Agreement will constitute the selection of a pilot as a full fledged pilot project. Parties to the Final Project Agreement should include at least EPA, project proponents, state or tribal environmental agencies, as well as other co-regulators. These agreements will deal with project-specific issues such as legal authority for project implementation, provision for regulatory flexibility for pilots, public involvement, specific commitments to environmental progress, expected environmental results, enforceability, etc. Each Final Project Agreement should clearly set forth objective, specific requirements that the subject facility or facilities have agreed to meet. EPA anticipates that the agreements will be structured so that any enforcement relief EPA has provided with respect to applicable regulatory requirements will be conditioned on the facilities' compliance with the specified requirements. EPA invites project proponents to include, in their proposals, suggestions for additional or alternative approaches to enforcing these requirements. Unless otherwise agreed to by both EPA and the proponent, the time to negotiate and sign a Final Project Agreement should be limited to six months from the date of initial project acceptance. The final phase of the program involves implementation, monitoring, and evaluation of the agreement terms.

EPA will hold a series of state and regional workshops to provide additional information on the programs and on project proposal development.

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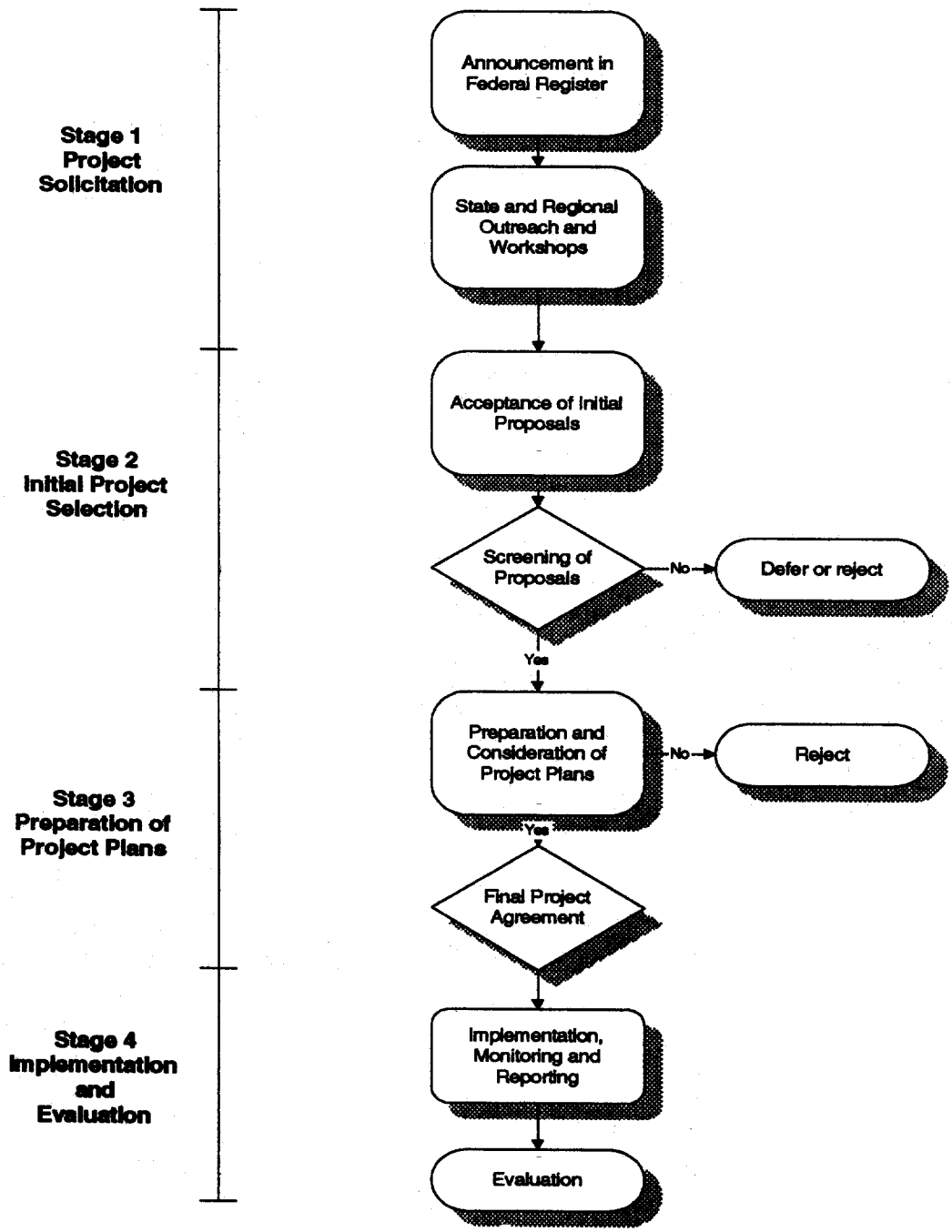
Flow Chart for Pilot Projects



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Data Quality Issues

To demonstrate that an alternative environmental management strategy is more effective than existing and reasonably foreseeable future regulatory requirements, project proponents should estimate both the baseline result from these requirements and the environmental results from the alternative strategy for their specific projects. These estimates are likely to be uncertain due to scientific and/or engineering questions as well as to interpretations of future applicable regulatory requirements. An important element of the Final Project Agreement will be an explicit statement concerning what data and analyses are needed to make these findings. The Final Project Agreement will be based on the learning experience EPA has with the projects it initially selects.

Project Examples

Consistent with EPA's objective to develop and demonstrate more flexible environmental management strategies, EPA intends to be flexible in entertaining proposals pursuant to this notice. In evaluating proposals, EPA will consider the selection criteria included in this notice. EPA also encourages proponents of proposals to be creative in suggesting alternative strategies and new forms of flexibility. To help stimulate such creativity, we provide the following guidance for the three different types of pilot projects. These examples are intended to be illustrative only; EPA encourages the submission of other types of projects that address the selection criteria and that have the strong prospect of producing ''cleaner, cheaper, smarter'' results compared to the current system.

Facility-based XL projects. National environmental requirements may not always be the best solution to environmental problems. Substantial cost savings can sometimes be realized, and environmental quality enhanced, through more flexible approaches involving pollution prevention. Pilot projects focused on individual facilities should test alternatives to current environmental management approaches driven by compliance with existing regulations. Taking account of facility-specific circumstances, the overall objective should be to devise and test more flexible approaches that result in both better environmental results and reduced compliance costs.

Industry-wide XL projects. The many regulations affecting an industry are often promulgated piecemeal over a long period of time rather than as a comprehensive environmental program. In many cases, national regulations apply relatively uniform requirements to many industries with very different environmental and economic characteristics. Pilot projects addressing these problems might take many forms. One example is the approach taken in The Netherlands, where overall environmental performance objectives and emission reduction targets for entire industries are negotiated between trade associations and the government, followed by enforceable facility-specific agreements to implement the industry-wide goals. Such projects might take the form of combining all federal (and possible state) requirements for an industry into a single, integrated Final Project Agreement. Sector-based and place-based strategies might be combined in a project that focused on a number of facilities in the same or related industries within a given geographic region or ecosystem. Projects might propose development of enforceable ''best management practices'' for pollution prevention or pilot the application of upcoming ISO 14000 voluntary environmental standards within a specific industry sector. EPA also encourages projects that combined an industry-wide component with facility-specific pilots to test the industry-wide strategy being developed.

XL projects for government agencies regulated by EPA. Government agencies, in the management of their facilities, have the same environmental responsibilities and face many of the same regulatory issues as private businesses. Agency-sponsored projects might test concepts with broad application in both public and private sector facilities. In seeking to comply with environmental statutes, however, government agencies also face unique obstacles and often have unique opportunities to innovate. Pilot projects in this category might address themselves to the unique issues faced by government agencies, such as the optimization of environmental control strategies over the long term in the context of annual budgeting, or the ability to reduce overall compliance costs by controlling specific pollution sources out of reach of environmental regulators. Outside of the process described today, the Department of Defense and EPA are working to develop pilot projects at two to four DOD facilities. The DOD pilots will seek to define performance goals and create an optimal approach to achieve those goals, combining compliance with unique pollution prevention and technology resources available to DOD.

Relationship of Pilots to Other Reinvention Efforts

The Common Sense Initiative was launched to move the Agency beyond the traditional medium by medium approach to environmental management to a systematic, sector-based approach. Announced in July 1994, the CSI focuses on six industry sectors—auto manufacturing, computers and electronics, iron and steel, metal finishing, petroleum refining, and printing industries. Each is directed by a consensus-based, multi-stakeholder advisory subcommittee, with CSI as a whole directed by the Common Sense Initiative Council operating under the Federal Advisory Committee Act. The purpose of CSI is to recommend changes in environmental regulations, statutes and programs that will result in ''cleaner, cheaper, and smarter'' outcomes for entire industries. Such changes, when accepted and promulgated, will lead to permanent adjustments to current programs.

Each of the CSI sector-specific subcommittees is developing a plan covering a broad spectrum of activities including (but not limited to) regulations, pollution prevention, reporting requirements and public access to data, permitting, innovative compliance assistance and enforcement, and innovative technology. In some cases, these plans will include projects that meet the criteria outlined today for regulatory reinvention pilots. Firms or other project sponsors in CSI industries are encouraged to develop XL projects. Project sponsors in CSI industries considering such projects should work through CSI in order to develop them. This will enable them to take advantage of the substantial progress being made through CSI including established stakeholder committees, working relationships among stakeholders, and progress toward identifying common concerns. (Project sponsors in CSI industries should contact Vivian Daub, Interim Director, Common Sense Initiative, at (202) 260–7417.)

The Environmental Leadership Program (ELP) grew out of a desire to test innovative compliance approaches such as third-party auditing. It is one of the means for streamlining compliance oversight as referenced in the President's March 16 announcement. ELP allows facilities to identify ways to streamline reporting requirements and reduce compliance inspections, without sacrificing environmental and public health protection. Facilities will use innovative management techniques such as environmental auditing and pollution prevention to reduce the

burden of paperwork and inspections on the facilities, while enhancing compliance with existing environmental laws. At the completion of these one-year pilot projects, the lessons learned from these projects will be applied to others.

ELP differs from the XL programs being announced today in that the XL programs include flexibility from existing regulation in exchange for the attainment of environmental results beyond what would have been achieved through full compliance with those regulations. ELP projects, on the other hand, work to achieve improvements in environmental quality within existing regulatory requirements.

EPA expects that compliance-oriented ELP projects may include regulatory innovations, and that some projects conducted pursuant to today's notice will also address compliance systems. EPA welcomes XL program proposals from ELP participants. (For information on ELP contact Tai-Ming Chang, Director, Environmental Leadership Program, at (202) 564–5081.)

Legal Mechanisms for Pilot Projects

EPA will seek to use a variety of administrative and compliance mechanisms to provide regulatory flexibility for final project agreements. Where a pilot project does not fully comply with one or more environmental requirements (e.g., where a facility does not fully attain a technology-based emission or discharge standard but adopts a pollution prevention program or installs additional controls on other releases so as to achieve superior environmental results at the facility), EPA will use enforcement mechanisms to facilitate the projects. These will be conditioned on the pilot project meeting requirements specified in the project plan. In particular circumstances, EPA may consider changes in underlying regulations, or may seek changes in underlying statutes. EPA recognizes that these questions raise issues of importance both to the Government and to potential participants in regulatory pilot projects. Applicants are invited to present EPA with proposed approaches tailored to provide the regulatory flexibility for their pilot projects.

Project Criteria

EPA will consider the following criteria in evaluating pilot project proposals:

1. Environmental results. Projects that are chosen should be able to achieve environmental performance that is superior to what would be achieved through compliance with current and reasonably anticipated future regulation. ''Cleaner results'' can be achieved directly through the environmental performance of the project or through the reinvestment of the cost savings from the project in activities that produce greater environmental results. Explicit definitions and measures of ''cleaner results'' should be included in the project agreement negotiated among stakeholders.

2. Cost savings and paperwork reduction. The project should produce cost savings or economic opportunity, and/or result in a decrease in paperwork burden.

3. Stakeholder support. The extent to which project proponents have sought and achieved the support of parties that have a stake in the environmental impacts of the project is an important factor. Stakeholders may include communities near the project, local or state governments, businesses, environmental and other public interest groups, or other similar entities.

4. Innovation/Multi-Media Pollution Prevention. EPA is looking for projects that test innovative strategies for achieving environmental results. These strategies may include processes, technologies, or management practices. Projects should embody a systematic approach to environmental protection that tests alternatives to several regulatory requirements and/or affects more than one environmental medium. EPA has a preference for protecting the environment by preventing the generation of pollution rather than by controlling pollution once it has been created. Pilot projects should reflect this preference.

5. Transferability. The pilots are intended to test new approaches that could conceivably be incorporated into the Agency's programs or in other industries, or other facilities in the same industry. EPA is therefore most interested in pilot projects that test new approaches that could one day be applied more broadly.

6. Feasibility. The project should be technically and administratively feasible and the project proponents must have the financial capability to carry it out.

7. Monitoring, reporting and evaluation. The project proponents should identify how to make information about the project, including performance data, available to stakeholders in a form that is easily understandable. Projects should have clear objectives and requirements that will be measurable in order to allow EPA and the public to evaluate the success of the project and enforce its terms. Also, the project sponsor should be clear about the time frame within which results will be achievable.

8. Shifting of risk burden. The project must be consistent with Executive Order 12898 on Environmental Justice. It must protect worker safety and ensure that no one is subjected to unjust or disproportionate environmental impacts.

EPA intends to work cooperatively with project proponents to develop and refine acceptable approaches. At the same time, the Agency must retain the ultimate authority to select projects based on a qualitative consideration of these criteria. Moreover, given the pilot nature of the programs proposed today and the limited number of slots, projects that satisfy many or all of the criteria may nonetheless not be selected if, in the Agency's judgment, other proposed projects better serve the objectives of the program. Moreover, no person is required to submit a proposal or obtain approval as a condition of commencing or continuing a regulated activity. Accordingly, there will be no formal administrative review available for proposals that are not selected, nor does EPA believe there will be a right to judicial review.

Timing for Project Selection

EPA intends to invite selected project proponents to negotiate final project agreements on a phased basis, with a small number of early selections followed by a period of project selection on a rolling basis. This summer, EPA plans to invite approximately six project proponents to begin the development of a Final Project Agreement. Beyond that date, project proponents will be invited to enter the next phase of the program on a rolling basis. EPA intends to select and initiate approximately 50 pilot projects within the next two years.

Request for Comment on Aspects of Program Pilots

Interested members of the public are invited to comment on all aspects of the pilot project program. EPA requests specific comment on the legal mechanisms for implementing project agreements, and the data requirements for determining both existing environmental baselines and the level of environmental quality that would result from the project agreement.

Paperwork Reduction Act

The information collection provisions in this notice, including the request for proposals, have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request

document has been prepared by EPA (ICR No. 1749.01) and is attached as an appendix to this notice. Additional copies may be obtained from Sandy Farmer, Information Policy Branch; EPA, 401 M Street, SW. (Mail Code 2136); Washington, DC 20460 or by calling (202) 260–2740. These information collection provisions are not effective until OMB approves them and a notice of OMB approval containing the ICR control number is published in the **Federal Register**. EPA will announce by separate Federal Register notice when proposals may be submitted.

Public reporting burden for this collection of information is estimated to average 150 hours per application response, including: time for reviewing instructions; developing the proposal; reviewing the proposal through respondent management; and consulting in some fashion with state or tribal co-regulatory agencies as encouraged in the solicitation. An additional 10 hours per respondent are estimated to be required of the state and tribal agencies consulted in the development of project proposals.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch; EPA; 401 M Street, SW. (Mail Code 2136); Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' The period of comment for the Information Collection Request will begin with the publication of this notice and extend for ten days.

Dated: May 17, 1995.

Fred Hansen,

Deputy Administrator.

Solicitation for Proposals for Regulatory Reinvention Pilot Projects—Supporting Statement for Information Collection Request (#1749.01)

1. Identification of the Information Collection

1(a) Title and Number of the Information Collection

Title: Regulatory Reinvention Pilot Projects

1(b) Short Characterization

This is a solicitation for proposals for a new program established pursuant to President Clinton's March 16, 1995, National Performance Review initiative: Reinventing Environmental Regulation. Regulatory Reinvention Pilot Projects are a set of pilot projects to test performance-based environmental management systems as alternatives to command and control regulatory approaches. These projects (called Project XL) are divided into four categories: facility-based projects, industry- or sector-based projects, community-based projects, and government agency-based projects. Under these projects, regulated entities will be given flexibility to depart from existing regulatory requirements in exchange for enforceable commitments to achieve environmental results that, on the whole, go beyond what would have been achieved through full compliance with those regulations. A competitive proposal process will allow us to select those projects that show the most promise to demonstrate successful alternative environmental management strategies.

The information will be collected by EPA's Office of Policy, Planing, and Evaluation (OPPE), which has been given responsibility for implementation of this program. The program itself will include other offices within EPA headquarters, EPA regions, state and tribal environmental agencies. The solicitation will help us identify those regulated entities who are interested in participating in Project XL pilot projects, the types of projects they are interested in pursuing, and the extent to which those projects our criteria for project selection. EPA has no form that is designated for a collection of this type.

This solicitation for proposals will be included in a **Federal Register** notice announcing Project XL, and will be sent to parties that have already expressed interest in developing pilot projects. Potential project proponents will mail completed proposals to the Office of Policy, Planning and Evaluation at EPA. The proposals will be distributed to a cross-agency review group that will evaluate and select proposals for initial participation in pilot project development. The process is further described in the attached notice.

2. Need for and Use of the Collection

2(a) Need/Authority for the Collection

The information is needed to implement the regulatory reinvention pilot project initiative outlined by President Clinton in his Reinventing Environmental Regulation directive. Under this initiative, EPA is to solicit its regulated entities for their best ideas on regulatory reinvention, and for pilot projects to test those ideas.

2(b) Use/Users of the Data

The proposals collected pursuant to this solicitation will be used as the starting point for development of full-fledged pilot projects. A competitive process will ensure that EPA can choose from a pool of useful project ideas. Moreover, a simple and flexible proposal format such as envisioned here will allow a diversity of regulated entities, small as well as large firms, agencies, and communities, to develop proposals. EPA will use the proposal submissions to screen ideas and select the most promising ones for further development.

3. The Respondents and the Information Requested

3(a) Respondents/SIC Codes

Potential respondents include all entities regulated by EPA pursuant to its authority under the various environmental statutes who wish to participate in the regulatory reinvention pilot project program.

3(b) Information Requested

The attached notice does not specify a format for proposals. It requests that proposals include, ''* * * in addition to providing general information about the proposed project, project proponents are encouraged to comment on the relationship of their proposals to the criteria for project selection described in this notice. Proponents of projects are invited, but by no means required, to submit other useful materials in paper or other audio/visual or electronic formats.'' As noted earlier, EPA's goal is to create as flexible as possible a solicitation process.

The nature of activities respondents are expected to conduct include: preparation of technical proposals, discussion with management of the respondent, consultation with state, tribal agencies, local governments and community or environmental stakeholders, and clerical matters related to project proposal. In technical preparation, respondents are encouraged to address the nine criteria described in the attached notice. Respondents are expected to describe the nature of control, pollution prevention, or other activities to be undertaken as part of the project; to define the scope of regulatory flexibility needed to undertake these activities (i.e. The otherwise required actions to be forgone in this project); and to discuss the nature of stakeholder or other processes the project would propose in order to move to Final Project Agreement. Proposals would likely

require some level of management sign-off from the respondent.

There is no recordkeeping requirement. Time for management discussions is also included in burden estimates. The notice strongly encourages consultation with state, tribal and community stakeholders, such as holding a meeting with the applicable regulatory agency.

4. The Information Collected—Agency Activities, Collection Methodology, and Information Management

4(a) Agency Activities

EPA will receive proposals and will develop a method for screening them based on the criteria described in the attached notice. These proposals will then be distributed to the cross-agency workgroup, with proposals addressing specific areas of regulatory policy highlighted to those parts of EPA with specific interest in those areas. Although the number of proposals submitted in response to this notice is a matter of speculation, EPA has estimated that it will be between one hundred and five hundred. EPA intends to ultimately implement about 50 projects. As such, proposals that clearly violate or do not address the criteria will be screened out at this point. However, OPPE intends to provide the other EPA, state and tribal agencies participating in the cross-agency project selection process maximum opportunity to view project proposals. As such, most proposals will be distributed directly to the committee without initial screening.

As was noted earlier, this will be an open solicitation following a ''rolling admissions'' model with no set end date. (A cutoff will ultimately be announced via a future **Federal Register** notice.) As such, proposals will be screened and reviewed as they arrive. Once screened and reviewed, proposals will be responded to in one of three fashions. Proposals will be rejected, and proposers thanked for their interest. Proposals will be accepted, and proponents invited to participate in the development of Final Project Agreements, or proposals will be deferred for future consideration. In this instance, EPA may discuss with the project proponent ways to increase the attractiveness of the proposal.

4(b) Collection Methodology and Management

This notice was developed by a team consisting of EPA headquarters and regional personnel; and representatives of state environmental agencies, through the Environmental Commission of the States. EPA also held discussions with a number of program stakeholders, including environmental and regulated community organizations. Also, a number of comments on the solicitation process were received unsolicited in response to President Clinton's March 16 directive and follow up press coverage of the regulatory reinvention effort. The solicitation process is the result of all of these comments and opinions.

The collection process will be as follows. EPA will place this solicitation in the **Federal Register**. EPA will also distribute copies upon request, and participate where invited in workshops designed to assist potential project proponents in development of proposals. Proposals will be sent to an EPA docket, where they will be logged in and catalogued. The docket will retain a copy for archival purposes, and display a copy for public viewing. Three additional copies will then be sent to OPPE for screening, reference purposes, and distribution to the cross-agency committee for proposal review. OPPE has also developed a Lotus Notes database for purposes of tracking proposals and telephone or other inquiries related to them.

4(c) Small Entity Flexibility

The flexible proposal process described earlier is designed to be useful to large as well as small entities. It was designed to be simple to respond to, with no undue burden on entities without full-time environmental managers, etc. EPA does not expect that this solicitation would impose additional burdens on small entities.

4(d) Collection Schedule

This will be an open solicitation for proposals, beginning with publication of the attached notice and with no set end date. In terms of choosing projects for initial participation in the program, EPA intends to select up to six projects by mid-June.

5. Nonduplication, Consultations, and Other Collection Criteria

5(a) Nonduplication

EPA does not have a form that would collect the information needed under the Regulatory Reinvention Pilot Projects pursuant to the recommendations of our cross-agency committee. Nor do existing databases of project proposals (e.g. Environmental Technology Initiative) provide a useful source of projects for this effort.

5(b) Consultations

This notice was developed by a team consisting of EPA headquarters and regional personnel; and representatives of state environmental agencies, through the Environmental Commission of the States. EPA also held discussions with a number of program stakeholders, including environmental and regulated community organizations. Also, a number of comments on the solicitation process were received unsolicited in response to President Clinton's March 16 directive and follow up press coverage of the regulatory reinvention effort. The solicitation process is the result of all of these comments and opinions.

5(c) Not Applicable

5(d) Not Applicable

5(e) Not Applicable

6. Estimating the Burden and Cost of the Collection

6(a) Respondent Burden

This section presents EPA's estimates of the burden hours and cost to complete the information collection activities associate with this collection. In using this analysis, however, it should be remembered not only that all responses to this solicitation are voluntary, but also that respondents have some expected value attached with their participation. Fundamental to projects in this program will be reduced cost of compliance due to increased regulatory flexibility. Not unlike a contracts-based Request For Proposals, one would not expect a response from any entity where the burdens associated with preparing the response outweigh the expected benefits to the respondent.

As noted earlier, EPA estimates the number of response proposals pursuant to this solicitation to be approximately 100 to 500. Estimating respondent costs in developing proposals is made difficult by the extremely flexible approach to this solicitation. Recall that the solicitation does not specify the form or nature of responses, except to give respondents a sense that only brief proposals (no more than 10 pages) are requested. EPA has already received several unsolicited proposals in response to the March 16, 1995, Reinventing Environmental Regulation document in which the pilot project programs were announced. To estimate the cost of proposal development, EPA asked (via telephone conversation) a sample of seven of these proposal sponsors to estimate the cost of preparing their unsolicited submissions. The data presented here are based on the median of their responses.

The proposal development process is, for these purposes, divided into four phases: technical aspects, management discussion, consultation with

government agencies and other potential stakeholders, and clerical preparation. Technical aspects cover development of the substantive portions of the proposal. The average for technical aspects of proposal development is estimated at 50 person hours. Management discussion covers presentation and refinement of proposals at corporate or other entity management levels. Management time also includes estimates of legal review, which though technical, has higher than average technical labor costs. The average time for management level discussions is estimated at 30 person hours. The solicitation strongly encourages project proponents to seek the support of state or tribal environmental agencies in advance of proposal to EPA. Although none of our unsolicited respondents had actively pursued this, they estimated the cost of doing so at approximately 60 person hours of management and technical time for the regulated entities, and 10 person hours of mixed management and technical time for the state or tribal agency. Clerical aspects of the proposal, such as typing, mailing, etc., were estimated at 10 hours. These figures, along with labor costs associated with them, are summarized in Figure 1.

FIGURE 1.—ESTIMATE OF RESPONDENT BURDEN AND COSTS

	Hours			
	Management	Technical	Clerical	Total
Prepare technical proposal	10	35	5	50
Discuss with management	25	5	.....	30
Consult with state/tribal agencies	40	20	.....	60
Clerical aspects of proposal	.....	.....	10	10
Subtotal—technical proposal	75	60	15	150
Subtotal (@ 100 respondents)	7,500	6,000	1,500	15,000
Subtotal (@ 500 respondents)	37,500	30,000	7,500	75,000
State/tribal consultation	5	5	.....	10
Subtotal (@ 100 respondents)	500	500	.....	1,000
Subtotal (@ 500 respondents)	2,500	2,500	.....	5,000
Range of total burden hours	8,000–40,000	6,500–32,500	1,500–7,500	16,000–80,000
	Costs			
Labor cost assumptions (per hour)	$70	$50	$20	.....
Subtotal—technical proposal	5,250	3,000	300	$8,550
Subtotal (@ 100 respondents)	525,000	300,000	30,000	855,000
Subtotal (@ 500 respondents)	2,625,000	1,500,000	150,000	4,275,000
Subtotal—state/tribal costs	350	250	.....	600
Subtotal (@ 100 respondents)	35,000	25,000	.....	60,000
Subtotal (@ 500 respondents)	175,000	125,000	.....	300,000
Range of total labor costs (x $1000)	$560–$2,800	$325–$1,625	$30–$150	$915–$4,575

In summary, respondent burden are estimated at 150 hours per respondent for preparation of each application (including consultation with state and tribal authorities, and mailing), and an additional 10 hours per state or tribal government agency are estimated to be required for consultation in the development of each project proposals. Given the expected range of between 100 and 500 applications, the total application burden are estimated at between 16,000 and 80,000 hours.

6(b) Respondent Costs

Per the previous discussion, total respondent costs are estimated to range between $915,000 (100 applicants), and $4,575,000 (500 applicants). This includes between $855,000 and $4,275,000 to develop the technical proposal, and another $60,000 to $300,000 for state and tribal consultation in proposal development.

6(c) Estimating Agency Burden and Cost

EPA will incur costs to process and review specific proposal and provide outreach in support of proposal preparation. For specific applications, EPA will incur costs to: Receive and process the proposals; initially screen the proposals; and distribute proposals to the cross-agency review group. (This document does not estimate the costs of the full regulatory reinvention pilot project program, but only the gathering of information through this solicitation). In addition, EPA will incur costs to perform outreach and training and disseminate information on the solicitation. Agency costs are summarized in Figure 2. Total EPA costs, at the upper range of five hundred responses, are estimated at $432,500.

FIGURE 2.—ESTIMATE OF EPA COST FOR INFORMATION COLLECTION

	Proposal	Total
Receive and process proposals	$10	.....
Perform initial screening	50	.....
distribute proposals across Agency	5	.....
Specific proposal costs	65	$32,500
Creating additional information documents	.....	50,000

FIGURE 2.—ESTIMATE OF EPA COST FOR INFORMATION COLLECTION—Continued

	Proposal	Total
Conducting workshops/public outreach	.....	350,000
Total	.....	$432,500

6(d) Bottom Line Burden Hours and Costs

Total respondent burden and cost for completing the proposals solicited in the Regulatory Reinvention Pilot Project are estimated at approximately 16,000 to 80,000 burden hours, and $915,000 to $4,575,000. Total EPA costs for processing specific proposals and supporting proposal development through technical outreach and workshops is estimated at $432,500.

6(e) Reasons for Change in Burden

This new burden results from the desire to implement regulatory reinvention pilot projects to test implementation alternative, performance-based, options to conventional command and control regulatory approaches.

6(f) Burden Statement

Public reporting burden for this collection of information is estimated to average 150 hours per application response, including: time for reviewing instructions, developing the proposal; reviewing the proposal through respondent management; and consulting with state or tribal co-regulatory agencies, and other community or environmental stakeholders are encouraged in the solicitation. An additional 10 hours per respondent are estimated to be required of the state and tribal agencies consulted in the development of project proposals. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Director, Regulatory Information Division, Mail Code 2136, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., 20460, Attention Regulatory Reinvention Pilot Projects Information Collection Burden (ICR#1749.01); and to the Office of Management and Budget Paperwork Reduction Project, Washington, D.C. 20503.

[FR Doc. 95–12563 Filed 5–22–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1049–DR]

Louisiana; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA–1049–DR), dated May 10, 1995, and related determinations.

EFFECTIVE DATE: May 17, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Louisiana dated May 10, 1995, is hereby amended to include the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 10, 1995:

St. Bernard and St. Tammany Parishes for Public Assistance (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–12577 Filed 5–22–95; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1050–DR]

North Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA–1050–DR), dated May 16, 1995, and related determinations.

EFFECTIVE DATE: May 16, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 16, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of North Dakota, resulting from severe storms, flooding and ground saturation due to high water tables beginning on March 1, 1995 and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of North Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Individual Assistance may be added at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint David P. Grier of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of North Dakota to have been affected adversely by this declared major disaster.

Benson, Bottineau, Cavalier, Griggs, Nelson, Ramsey, Rolette, Steele, Towner, and Walsh Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

Director.

[FR Doc. 95–12576 Filed 5–22–95; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

Edward N. Barol, Trustee for the Irrevocable Trust and Travel One, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 6, 1995.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Edward N. Barol, Trustee for the Irrevocable Trust and Travel One, Narberth, Pennsylvania; to acquire an additional 18.43 percent, for a total of 21.44 percent, of the voting shares of First Bank of Philadelphia, Philadelphia, Pennsylvania

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Mr. Bernard D. Cooper, Marion, Iowa; to acquire 100 percent of the voting shares of Delhi Bancshares, Inc., Delhi, Iowa, and thereby indirectly acquire Delhi Savings Bank, Delhi, Iowa.

Board of Governors of the Federal Reserve System, May 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–12540 Filed 5–22–95; 8:45 am]

BILLING CODE 6210–01–F

Towne Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 16, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Towne Bancorp, Inc., Perrysburg, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of Towne Bank, Perrysburg, Ohio.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Foursquare Cornerstone, Inc., Brookfield, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Cornerstone Bank, Brookfield, Wisconsin, a *de novo* bank.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Security Northwest Bancorporation, Inc., Bloomington, Minnesota; to merge with The Highland Bancorporation, Inc., Bloomington, Minnesota, and thereby indirectly acquire The Highland Bank, St. Paul, Minnesota.

D. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Whitcorp Financial Company, Leoti, Kansas; to merge with Western Bancorp, Inc., Garden City, Kansas, and thereby indirectly acquire Western State Bank, Garden City, Kansas.

Board of Governors of the Federal Reserve System, May 17, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–12541 Filed 5–22–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 951 0022]

Columbia/HCA Healthcare Corporation; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would permit, among other things, Columbia/HCA and Healthtrust, Inc. to merge, provided that Columbia/HCA divests seven hospitals within twelve months (nine months for the divestiture of three hospitals in the Salt Lake City area). The proposed consent agreement would require the respondent, for ten years, to obtain Commission approval before acquiring another acute care hospital in any of the six market areas at issue, and before transferring an acute care hospital in any of the areas to another entity that already operates one in that area.

DATES: Comments must be received on or before July 24, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580

FOR FURTHER INFORMATION CONTACT: Mark Horoschak, FTC/S–3115, Washington, DC 20580, (202) 326–2756.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

In the matter of Columbia/HCA Healthcare Corporation, a corporation File No. 951–0022.

The Federal Trade Commission (''Commission''), having initiated an investigation into the proposed acquisition of Healthtrust, Inc.—The Hospital Company (''Healthtrust'') by Columbia/HCA Healthcare Corporation (''Columbia/HCA''), and of certain acts and practices of Columbia/HCA, and it now appearing that Columbia/HCA (''proposed respondent'') is willing to enter into an agreement containing an order to divest certain assets, to cease and desist from making certain acquisitions, and providing for other relief:

It is hereby agreed by and between the proposed respondent by its duly authorized officers and attorneys, and counsel for the Commission that:

1. The proposed respondent Columbia/HCA is a corporation organized, existing, and doing business under and by virtue of the laws of Delaware, with its principal place of business at One Park Plaza, Nashville, Tennessee 37203.

2. The proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. The proposed respondent waives:

a. any further procedural steps;

b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. any claim under the Equal Access to Justice Act.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by the proposed respondent that the law has been violated as alleged in the draft of complaint or that the facts as alleged in the draft of complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to the proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to divest and to cease and desist, and other relief in disposition of the proceedings, and (2) make information public with respect thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. The proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or this agreement may be used to vary or contradict the terms of the order.

7. The proposed respondent has read the proposed complaint and order contemplated hereby. The proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that the Commission's approval, pursuant to the Commission's order in Docket No. C–3538, of the Acquisition, as defined in the following order, is conditioned upon the proposed respondent's compliance with the terms of the following order. The proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the following order after it becomes final, or as the successor to Healthtrust, Inc.—The Hospital Company, of the Commission's order in Docket No. C–3538.

Order

I

It is ordered That, as used in this order, the following definitions shall apply:

A. ''Columbia/HCA'' or ''respondent'' means Columbia/HCA Healthcare Corporation, its partnerships, joint ventures, companies, subsidiaries, divisions, and groups and affiliates controlled by Columbia/HCA; their directors, officers, employees, agents, and representatives; and their successors and assigns.

B. ''Healthtrust'' means Healthtrust, Inc.—The Hospital Company, its partnerships, joint ventures, companies, subsidiaries, divisions, and groups and affiliates controlled by Healthtrust; their directors, officers, employees, agents, and representatives; and their successors and assigns.

C. ''Commission'' means the Federal Trade Commission.

D. The ''Acquisition'' means the transaction contemplated by the October 4, 1994, agreement between Columbia/HCA and Healthtrust, whereby Columbia/HCA will acquire all the stock of Healthtrust, a wholly-owned subsidiary of Columbia/HCA will be merged with and into Healthtrust, and Healthtrust will operate as a wholly-owned subsidiary of Columbia/HCA.

E. ''Acute care hospital'' means a health care facility, licensed as a hospital, other than a federally-owned facility, having a duly organized governing body with overall administrative and professional responsibility, and an organized professional staff, that provides 24-hour inpatient care, that may also provide outpatient services, and having as a primary function the provision of inpatient services for medical diagnosis, treatment, and care of physically injured or sick persons with short term or episodic health problems or infirmities.

F. To ''operate'' an acute care hospital means to own, lease, manage, or otherwise control or direct the operations of an acute care hospital, directly or indirectly.

G. To ''acquire'' an acute care hospital means, directly or indirectly, through subsidiaries, partnerships, or otherwise:

1. To acquire the whole or any part of the assets used or previously used within the last two years (and still suitable for use) for operating an acute care hospital from any person presently engaged in, or within the two years preceding such acquisition engaged in, operating an acute care hospital;

2. To acquire the whole or any part of the stock, share capital, equity, or other interest in any person engaged in, or

within the two years preceding such acquisition engaged in, operating an acute care hospital;

3. To acquire or otherwise obtain the right to designate, directly or indirectly, directors or trustees of an acute care hospital; or

4. To enter into any other arrangement to obtain direct or indirect ownership, management, or control of an acute care hospital or any part thereof, including, but not limited to, a lease of or management contract for an acute care hospital.

H. ''Affiliate'' means any entity whose management and policies are controlled in any way, directly or indirectly, by the person with which it is affiliated.

I. ''Person'' means any natural person, partnership, corporation, company, association, trust, joint venture, or other business or legal entity, including any governmental agency.

J. ''Relevant area(s)'' means:

1. the Salt Lake City-Ogden Metropolitan Statistical Area, encompassing three contiguous counties in northern Utah: Weber County, Davis County, and Salt Lake County;

2. the Pensacola area, encompassing the Florida counties of Escambia and Santa Rosa;

3. the Okaloosa area, encompassing the Florida county of Okaloosa;

4. the Denton area, encompassing the Texas counties of Cooke and Denton (excluding the incorporated city of Lewisville and that portion of Denton County south of Texas highway number 121);

5. the Ville Platte-Mamou-Opelousas area, encompassing the Louisiana parishes of Evangeline and St. Landry; and

6. the Orlando area, encompassing the Florida counties of Seminole, Orange, and Osceola.

K. ''CLHS'' means Central Louisiana Healthcare System Limited Partnership, a Louisiana partnership in commendam in which Columbia/HCA currently holds a partnership interest, its partnerships, joint ventures, companies including the Ville Platte Medical Center, subsidiaries, divisions, and groups and affiliates controlled by CLHS; their directors, officers, employees, agents, and representatives; and their successors and assigns.

L. ''ORHS'' means Orlando Regional Healthcare System, Inc., a Florida corporation, its partnerships, joint ventures, companies, subsidiaries, divisions, and groups and affiliates controlled by ORHS; their directors, officers, employees, agents, and representatives; and their successors and assigns.

M. The ''SSH Joint Venture'' means the Florida partnership in which Healthtrust (through a wholly-owned subsidiary) and ORHS (through a wholly-owned subsidiary) hold partnership interests, which owns and operates the South Seminole Hospital in Longwood, Florida.

N. The ''SSH Joint Venture Interest'' means Healthtrust's interest in the SSH Joint Venture.

O. The ''Schedule A Assets'' means the assets listed on the attached Schedule A.

P. The ''Schedule B Assets'' means the assets listed on the attached Schedule B.

Q. The ''Utah Healthtrust Assets'' means the assets listed on the attached Schedule C.

R. ''Assets and Businesses'' include, but are not limited to, all assets, properties, businesses, rights, privileges, contractual interests, licenses, and goodwill of whatever nature, tangible and intangible, including, without limitation, the following:

1. all real property interests (including fee simple interests and real property leasehold interests, whether as lessor or lessee), together with all buildings, improvements, and fixtures located thereon, all construction in progress thereat, all appurtenances thereto, and all licenses and permits related thereto (collectively, the ''Real Property'');

2. all contracts and agreements with physicians, other health care providers, unions, third party payors, HMOs, customers, suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consigners, and consignees (collectively, the ''Contracts'');

3. all machinery, equipment, fixtures, vehicles, furniture, inventories, and supplies (other than such inventories and supplies as are used in the ordinary course of business during the time that Columbia/HCA owns the assets) (collectively, the ''Personal Property'');

4. all research materials, technical information, management information systems, software, software licenses, inventions, trade secrets, technology, know how, specifications, designs, drawings, processes, and quality control data (collectively, the ''Intangible Personal Property'');

5. all books, records, and files, excluding, however, the corporate minute books and tax records of Columbia/HCA and its affiliates; and

6. all prepaid expenses.

II

It is further ordered That:

A. Respondent shall divest (or in the case of the Ville Platte Medical Center shall cause CLHS to divest), absolutely and in good faith, within twelve (12) months of the date this order becomes final, the Schedule A Assets.

B. Respondent shall also divest absolutely and in good faith, within twelve (12) months of the date this order becomes final, the Assets and Business of, including all improvements, additions, and enhancements made to such facilities prior to divestiture, either of the following:

1. Denton Regional Medical Center, 4405 North Interstate 35, Denton, Texas 76207, including the following (collectively ''DRMC''):

a. DRMC Office Building, 4401 North I–35, Denton, Texas 76207;

b. the medical office building and vacant land at 3353 I–35E South, Denton, Texas 76107;

c. the satellite offices operated at Denton Regional Medical Center, 1207A North Grand Avenue, Gainesville, Texas 76240;

d. Flow Rehabilitation Hospital, 1310 Scripture, Denton, Texas 76201;

e. Denton Regional Medical Center—Little Elm, 420 FM720 West, Suite 9, Little Elm, Texas 75068;

f. Professional Health Care Services, 621 Londonderry Lane, Denton, Texas 76205; or

2. Denton Community Hospital, 107 N. Bonnie Brae, Denton, Texas 76201, and the Medical Office Building at Scripture/Bonnie Brae (collectively ''Denton Community Hospital'').

C. Respondent shall also divest such additional Assets and Businesses ancillary to the Schedule A Assets and to either DRMC or Denton Community Hospital, and effect such arrangements as are necessary to assure the marketability, viability, and competitiveness of the Schedule A Assets, DRMC and Denton Community Hospital.

D. Respondent shall divest the Schedule A Assets, and either DRMC or Denton Community Hospital, only to an acquirer or acquirers that receive the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. If respondent proposes to divest Denton Community Hospital, it must provide the Commission with the written consent of the landlord of such facilities to the proposed assignment and divestiture at the time that Commission approval of the divestiture is sought. The purpose of the divestitures of the Schedule A Assets and of either DRMC or Denton Community Hospital, is to ensure the continuation of the Schedule A Assets and of either DRMC or Denton

Community Hospital, as ongoing, viable acute care hospitals and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

E. With respect to the Schedule A Assets and DRMC, respondent shall comply with all terms of the Agreement to Hold Separate Regarding the Florida, Texas, and Louisiana Assets, attached hereto and made a part hereof as Appendix I. Said Hold Separate shall continue in effect until such time as respondent had fulfilled the divestiture requirements of this order or until such other time as said Hold Separate provides.

F. Pending divestiture of the Schedule A Assets and DRMC or Denton Community Hospital, respondent shall take such actions as are necessary to maintain the present marketability, viability, and competitiveness of the Schedule A Assets, DRMC, and Denton Community Hospital, and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the Schedule A Assets, DRMC, and Denton Community Hospital, except for ordinary wear and tear.

G. A condition of approval by the Commission of each divestiture shall be a written agreement by the acquirer(s) of the Schedule A Assets and of either DRMC or Denton Community Hospital, that it will not sell for a period of ten (10) years from the date of divestiture, directly or indirectly, through subsidiaries, partnerships, or otherwise, without the prior approval of the Commission, any Schedule A Asset, DRMC, or Denton Community Hospital to any person who operates, or will operate immediately following the sale, any other acute care hospital in the same relevant area where the divested acute care hospital is located. Provided, however, that the acquirer is not required to seek prior approval of the Commission for the sale of any of the assets identified in any Part II of Schedule A.

III

It is further ordered That:

A. Within six (6) months of the date this order becomes final, respondent shall terminate, absolutely and in good faith, the SSH Joint Venture, by either acquiring ORSH's interest in the SSH Joint Venture or by divesting the SSH Joint Venture Interest. The purpose of the termination of the SSH Joint Venture is to ensure the continuation of the South Seminole Hospital as an ongoing, viable acute care hospital and to remedy the lessening of competition resulting from the Acquisition as alleged in the Commission's complaint.

B. If respondent terminates the SSH Joint Venture by acquiring ORHS's interest in the SSH Joint Venture, such acquisition shall occur only in such a manner that receives the prior approval of the Commission. If respondent terminates the Joint Venture by divesting the SSH Joint Venture Interest, such divestiture shall be made only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission.

C. With respect to the SSH Joint Venture Interest, respondent shall comply with all terms of the Agreement to Hold Separate Regarding the Florida, Texas, and Louisiana Assets, attached hereto and made a part hereof as Appendix I. Said Hold Separate shall continue in effect until such time as respondent has fulfilled the divestiture requirements of this order or until such other time as said Hold Separate provides.

D. Pending the divestiture of the SSH Joint Venture Interest, respondent shall take such actions as are necessary to maintain the present marketability, viability, and competitiveness of the South Seminole Hospital, and to prevent the destruction, removal, wasting, deterioration, or impairment of the South Seminole Hospital, except for ordinary wear and tear.

E. A condition of approval by the Commission of the divestiture of the SSH Joint Venture Interest, to any acquirer except ORHS, shall be a written agreement by the acquirer of the SSH Joint Venture Interest that it will not sell for a period of ten (10) years from the date of divestiture, directly or indirectly, through subsidiaries, partnerships, or otherwise, without the prior approval of the Commission, any interest in South Seminole Hospital to any person who operates, or will operate immediately following the sale, any other acute care hospital in the Orlando area.

IV

It is further ordered That:

A Respondent shall divest, absolutely and in good faith, within nine (9) months of the date the Commission approves the Acquisition pursuant to Paragraph IV.E. of the order in Docket No. C–3538, the Schedule B Assets.

B. Respondent shall also divest such additional Assets and Businesses ancillary to the Schedule B Assets and effect such arrangements as are necessary to assure the marketability, viability, and competitiveness of the Schedule B Assets.

C. Respondent shall divest the Schedule B Assets only to an acquirer or acquirers that receive the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission. The purpose of the divestitures of the Schedule B Assets is to ensure the continuation of the Schedule B Assets as ongoing, viable acute care hospitals and to remedy the lessening of competition resulting from the acquisition as alleged in the Commission's complaint and as described in the Commission's letter approving the Acquisition.

D. Respondent shall comply with all terms of the Agreement to Hold Separate regarding the Utah Healthtrust Assets listed on Schedule C, and as described in Appendix II which is attached hereto and made a part hereof (''Utah Hold Separate''). Said Utah Hold Separate shall continue in effect until such time as respondent has fulfilled the divestiture requirements of Paragraph IV of this order, or until such other time as the Utah Hold Separate provides.

E. Pending divestiture of the Schedule B Assets, respondent shall take such actions as are necessary to maintain the present marketability, viability, and competitiveness of the Schedule B Assets and of the Utah Healthtrust Assets, and to prevent the destruction, removal, wasting, deterioration, or impairment of any of the Schedule B Assets and any of the Utah Healthtrust Assets, except for ordinary wear and tear.

F. A condition of approval by the Commission of each divestiture shall be a written agreement by the acquirer(s) of each Schedule B Asset that it will not sell for a period of ten (10) years from the date of divestitute, directly or indirectly, through subsidiaries, partnerships, or otherwise, without the prior approval of the Commission, any Schedule B Asset to any person who operates, or will operate immediately following the sale, any other acute care hospital in the same relevant area where the divested acute care hospital is located. Provided, however, that the acquirer is not required to seek prior approval of the Commission for the sale of any of the assets identified in any Part II of Schedule B.

V

It Is further ordered That:

A. If the respondent has not divested (or in the case of the Ville Platte Medical Center has not caused CLHS to divest), absolutely and in good faith and with the Commission's prior approval, each Schedule A Asset and either DRMC or Denton Community Hospital, in accordance with this order, within twelve (12) months of the date this order

becomes final, the Commission may appoint a trustee to divest the undivested Schedule A Assets and either DRMC or Denton Community Hospital.

B. If the respondent has not terminated absolutely and in good faith and with the Commission's prior approval, the SSH Joint Venture, in accordance with this order, within six (6) months of the date this order becomes final, the Commission may appoint a trustee to divest the SSH Joint Venture Interest.

C. If the respondent has not divested, absolutely and in good faith and with the Commission's prior approval, each Schedule B Asset, in accordance with this order within nine (9) months of the date the Commission approves the Acquisition pursuant to the order in Docket No. C–3538, the Commission may appoint a trustee to divest the Utah Healthtrust Assets.

D. In the event that the Commission or the Attorney General brings an action for any failure to comply with this order or in any way relating to the Acquisition, pursuant to section 5(*l*) of the Federal Trade Commission Act, 15 U.S.C. 45(*l*), or any other statute enforced by the Commission, the respondent shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under Paragraph V.A, V.B, or V.C shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it for any failure by the respondent to comply with this order, or the order in Docket No. C–3538.

E. If a trustee is appointed by the Commission or a court pursuant to Paragraph V.A, V.B, or V.C of this order, the respondent shall consent to the following terms and conditions regarding the trustee's powers, duties, authority, and responsibilities:

1. The Commission shall select the trustee, subject to the consent of the respondent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If respondent has not opposed, in writing, including the reasons for opposing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to respondent of the identity of any proposed trustee, respondent shall be deemed to have consented to the selection of the proposed trustee.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest any undivested Schedule A Asset, DRMC or Denton Community Hospital, the SSH Joint Venture Interest, or Utah Healthtrust Asset.

3. Within ten (10) days after appointment of the trustee, respondent shall execute a trust agreement that, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture(s) required by this order.

4. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph V.E.3 to accomplish the divestiture(s), which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission, or in the case of a court-appointed trustee, by the court; provided however, the Commission may extend this period only two (2) times.

5. The trustee shall have full and complete access to the personnel, books, records, and facilities related to the Schedule A Assets, DRMC, Denton Community Hospital, the SSH Joint Venture Interest, the Schedule B Assets, the Utah Healthtrust Assets, or to any other relevant information as the trustee may request. Respondent shall develop such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Respondent shall take no action to interfere with or impede the trustee's accomplishment of the divestiture(s). Any delays in divestiture caused by respondent shall extend the time for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or, for a court appointed trustee, by the court.

6. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to the respondent's absolute and unconditional obligation to divest at no minimum price. The divestiture(s) shall be made in the manner and to an acquirer(s) as set forth in Paragraph II for the Schedule A Assets and DRMC or Denton Community Hospital; Paragraph III for the SSH Joint Venture Interest; and Paragraph IV and Paragraph V.C for the Utah Healthtrust Assets; provided, however, if the trustee receives bona fide offers from more than one acquiring entity for any one facility or asset, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity selected by respondent from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of the respondent, on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have the authority to employ, at the cost and expense of respondent, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the sale and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of the respondent and the trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement contingent on the trustee's divesting the undivested Schedule A Assets, either DRMC or Denton Community Hospital, the SSH Joint Venture Interest, or the Utah Healthtrust Assets.

8. Respondent shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

9. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph V.A, V.B, or V.C of this order.

10. The Commission or, in the case of a court-appointed trustee, the court, may on its own initiative, or at the request of the trustee, issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture(s) required by this order.

11. The trustee shall have no obligation or authority to operate or maintain the Schedule A Assets, DRMC, Denton Community Hospital, the SSH

Joint Venture Interest, or the Utah Healthtrust Assets.

12. The trustee shall report in writing to the respondent and to the Commission every sixty (60) days concerning the trustee's effort to accomplish divestiture.

VI

It is further ordered That, for a period of ten (10) years from the date this order becomes final, respondent shall not, without the prior approval of the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity, or other interest in any person presently engaged in, or within the two years preceding such acquisition engaged in, operating an acute care hospital in any relevant area;

B. Acquire any assets used, or previously used, in any relevant area (and still suitable for use) for operating an acute care hospital from any person presently engaged in, or within the two years preceding such acquisition engaged in, operating an acute care hospital in any relevant area;

C. Enter into any agreement or other arrangement to obtain direct or indirect ownership, management, or control of any acute care hospital, or any part thereof, in any relevant area, including but not limited to, a lease of or management contract for any such acute care hospital;

D. Acquire or otherwise obtain the right to designate, directly or indirectly, directors or trustees of any acute care hospital in any relevant area;

E. Permit any acute care hospital it operates in any relevant area to be acquired by any person that operates, or will operate immediately following such acquisition, any other acute care hospital in the same relevant area.

Provided, however, that such prior approval shall not be required for:

1. the establishment by respondent of a new acute care hospital facility in a relevant area: (a) that is a replacement for an existing acute care hospital facility operated by respondent, and not required to be divested by respondent pursuant to this order, in the same relevant area; or (b) that is not a replacement for any acute care hospital facility in any relevant area;

2. any transaction otherwise subject to this Paragraph VI of this order if the fair market value of (or, in case of an asset acquisition, the consideration to be paid for) the acute care hospital or part thereof to be acquired does not exceed one million dollars ($1,000,000); or

3. the acquisition of products or services in the ordinary course of business.

VII

It is further ordered That, for a period of ten (10) years from the date this order becomes final, respondent shall not, directly or indirectly, through subsidiaries, partnerships or otherwise, without providing advance written notification to the Commission, consummate any joint venture or other arrangement with any other acute care hospital in any relevant area for the joint establishment or operation of any new acute care hospital, or any hospital, medical, surgical, diagnostic, or treatment service or facility, or part thereof in the same relevant area where both parties operate an acute care hospital. Such advance notification shall be filed immediately upon respondent's issuance of a letter of intent for, or execution of an agreement to enter into, such a transaction, whichever is earlier.

Said notification required by this Paragraph VII of this order shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations (as amended), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification need not be made to the United Stated Department of Justice, and notification is required only of respondent and not of any other party to the transaction. Respondent is not required to observe any waiting period for said notification required by this Paragraph VII.

Respondent shall comply with reasonable requests by the Commission staff for additional information concerning any transaction subject to this Paragraph VII of this order, within fifteen (15) days of service of such requests.

Provided, however, that no transaction shall be subject to this Paragraph VII of this order if:

1. the fair market value of the assets to be contributed to the joint venture or other arrangement by acute care hospitals not operated by respondent does not exceed one million dollars ($1,000,000);

2. the service, facility, or part thereof to be established or operated in a transaction subject to this order is to engage in no activities other than the provision of the following services: Laundry; data processing; purchasing; materials management; billing and collection; dietary; industrial engineering; maintenance; printing; security; records management; laboratory testing; personnel education, testing, or training; or

3. notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. 18a, or prior approval by the Commission is required, and has been requested, pursuant to Paragraph VI of this order.

VIII

It is further ordered That, for a period of ten (10) years from the date this order becomes final, respondent shall not permit all, or any substantial part of, any acute care hospital it operates in any relevant area to be acquired by any other person (except pursuant to the divestitures required by Paragraphs II, III, and IV of this order), unless the acquiring person files with the Commission, prior to the closing of such acquisition, a written agreement to be bound by the provisions of this order, which agreement respondent shall require as a condition precedent to the acquisition.

IX

It is further ordered That:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until the respondent has fully complied with Paragraphs II, III, and IV of this order, respondent shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with Paragraphs II, III, and IV of this order. Respondent shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II, III, and IV of the order, including a description of all substantive contacts or negotiations for the divestitures or the termination of the SSH joint venture, and the identify of all parties contacted. Respondent shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning the divestitures.

B. One (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at other times as the Commission may require, respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and it is complying with Paragraphs V, VI, VII, and VIII of this order.

X

It is further ordered That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries or any other change in the corporation that may affect compliance obligations arising out of the order.

XI

It is further ordered That, for the purpose of determining or securing compliance with this order, the respondent shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of the respondent relating to any matters contained in this order; and

B. Upon five days' notice to respondent and without restraint or interference from it, to interview officers, directors, or employees of respondent, who may have counsel present regarding such matters.

Schedule A

The assets to be divested pursuant to Paragraph II (''Schedule A Assets'') shall consist of, without limitation, all Assets and Businesses (including all improvements, additions and enhancements made to such assets prior to divestiture), of the following:

A. The Pensacola area Schedule A Assets are:

Part I

1. Medical Center of Santa Rosa, Inc., d.b.a. Santa Rosa Medical Center, 1450 Berryhill Road, Milton, Florida 32570

Part II

2. MRI (Magnetic Resonance Imaging)—free-standing modular building attached to hospital by walkway, leased 60 months—originated in 1993.
3. EMS (Emergency Medial Services), 4930 Glover Lane, Milton, Florida 32570
4. Berryhill Medical Park—including undeveloped land Milton, Florida 32570
   Master Leased 10 years:
   Building 1—1540 Berryhill Medical Park (7,612 sq. ft.)
   Building 2—1550 Berryhill Medical Park (5,943 sq. ft.)
   Building 3—1560 Berryhill Medical Park (4,427 sq. ft.)
5. Santa Rosa Primary Care Center, Leased Building at 4928 Highway 90, Pace, Florida 32571
6. Office Space Leases (as Tenant):
   3,250 sq. ft. from Pace Medical Center Partnership, 2874 Highway 90, Building A, Pace, Florida 32571
   1,360 sq. ft. from Pace Medical Center Partnership, 2874 Highway 90, Building B, Pace, Florida 32571
   25,200 sq, ft. from Dave Gilbert, 5950 Berryhill Road, Building 1.3, Santa Rosa, Florida 32570

2. The Okaloosa area Schedule A Assets are:

Part I

1. North Okaloosa Medical Center—Hospital, 151 Redstone Avenue, Crestview, Florida 32539 (with approximately 34 acres of land).

Part II

2. Crestview Professional Condominium Association, Professional Office Buildings, 131 Redstone Avenue, Crestview, Florida 32539 (Suites 101, 103, 104, 105, 107, 108, 109)
3. Lease of North Okaloosa Medical Office Building, 131 Redstone Avenue, Crestview, Florida 32539 (Suites 125, 127 and 129)
4. Lease of Medical Office Building, 127 Redstone Avenue, Crestview, Florida 32539
5. Rural Health Clinic, LaGrange Medical Clinic Building, Rt. 3, Box 16, Highway 331 North, Freeport, Florida 34329
6. Bluewater Bay Clinic, Market Place Professional Center, 1507 Merchants Way, Niceville, Florida 32588
7. Rural Health Clinic, Lease of Access Medical Clinic Building, 130 Redstone Avenue, Crestview, Florida 32539

3. The Ville Platte-Mamou-Opelousas area Schedule A Assets are:

Part I

1. Ville Platte Medical Center, 800 East Main Street, Ville Platte, Louisiana 70586

Part II

2. Lease (expires October 1995) of the Ardwin Physicians Office Building, Ville Platte, Louisiana

Schedule B

The assets to be divested pursuant to Paragraph IV (''Schedule B Assets'') shall consist of, without limitation, all Assets and Businesses (including all improvements, additions and enhancements made to such assets prior to divestiture), of the following:

a. The Pioneer Valley Assets are:

Part I

1. Pioneer Valley Hospital, 3460 South Pioneer Park, West Valley City, Utah 84120

Part II

2. Three (3) Medical Office Buildings (on hospital campus)
3. Lease of 69,382 sq. ft. (on hospital campus)
4. Land (empty lot), 40th West Street, West Jordan, Utah 84088
5. Lease of 11,750 sq. ft. (corner of 90th South Street and 27th West Street), West Jordan, Utah 84088
6. Least of 7,134 sq. ft., 150 Wright Bros. Drive, Suite 540, Salt Lake City, Utah 84116
7. Salt Lake Industrial Clinic, 441 S. Redwood Road, Salt Lake City, Utah 84104

B. The Jordan Valley Assets are:

Part I

1. Jordan Valley Hospital, 3580 West 9000 South, West Jordan, Utah 84088

Part II

2. Three (3) leases of office space (on hospital campus) (12,000 sq, ft.; 3,374 sq. ft; and 4,620 sq. ft)
3. 12% limited liability partnership in South Ridge Professional Plaza (on campus)
4. Lease of Medical Office Building (Perry Realty), South Valley Medical Plaza, 3590 West 9000 South, West Jordan, Utah 84088

C. The Davis Hospital Assets are:

Part I

1. Davis Hospital and Medical Center, 1600 West Antelope Drive, Layton, Utah 84041

Part II

2. Medical Office Building, 1660 West Antelope Drive, Layton, Utah 84041
3. Medical Office Building, 2132 North 1700 West, Layton, Utah 84041

Schedule C—Utah Healthtrust Assets

The Utah Healthtrust Assets shall consist of, without limitation, all Assets and Businesses (including all improvements, additions and enhancements made to such assets prior to divestiture), of Healthtrust in the State of Utah at the time of the Acquisition, including, without limitation, the following:

1. The following facilities:

a. Pioneer Valley Hospital, 3460 South Pioneer Park, West Valley City, Utah 84120; three (3) medical office buildings on the campus of the hospital; the lease of 69,382 sq. feet on the hospital campus; land (empty lot) at

40th West Street, West Jordan, Utah 84088; lease of 11,750 sq. ft. (corner of 90th South Street and 27th West Street), West Jordan, Utah 84088; and lease of 7,134 sq. ft., 150 Wright Bros. Drive, Suite 540, Salt Lake City, Utah 84116;

b. Jordan Valley Hospital, 3580 West 9000 South, West Jordan, Utah 84084; three (3) leases of office space on the campus of the hospital (12,000 sq. ft., 3,374 sq. ft., and 4,620 sq. ft.); a 12 percent limited lability partnership in South Ridge Professional Plaza, and the lease of Medical Office Building (Perry Realty), South Valley Medical Plaza; 3590 West 9000 South, West Jordan, Utah 84088;

c. Lakeview Hospital, 630 East Medical Drive, Bountiful, Utah 84010;

d. Brigham City Community Hospital, 950 South 500 West, Brigham City, Utah 84302;

e. Ogden Regional Medical Center, 5475 South 500 East, Ogden, Utah 84405;

f. Castleview Hospital, 300 North Hospital Drive, Price, Utah 84501;

g. Springville Medical Center, 730 East 300 South, Springville, Utah 84663; and

h. Ashley Valley Medical Center, 151 West 200 North, Vernal, Utah 84078; and

2. HTI of Utah, Inc., its partnerships, joint ventures, companies, subsidiaries, divisions, and groups and affiliates controlled by HTI of Utah or Healthtrust in Utah; their directors, officers, employees, agents, and representatives; and their successors and assigns; and the following corporations and their successors and assigns;

a. Brigham City Community Hospital, Inc.;

b. Castleview Hospital, Inc.;

c. HTI HomeMed of Utah, Inc.;

d. HTI-Managed Care of Utah, Inc.;

e. HTI Physician Services of Utah, Inc.;

f. HTI Utah Data Corporation;

g. Hospital Corporation of Utah;

h. Intergroup Healthcare Corporation of Utah;

i. Medical Services of Salt Lake City, Inc.;

j. MHHE Corporation;

k. Mountain View Hospital, Inc.;

l. Ogden Medical Center, Inc.;

m. Pioneer Valley Hospital, Inc.; and

n. West Jordan Hospital Corporation.

Appendix I—Agreement to Hold Separate Regarding the Florida, Texas, and Louisiana Assets

In the matter of Columbia/HCA Healthcare Corporation, a corporation. File No. 951–0022.

This agreement to Hold Separate Regarding the Florida, Texas and Louisiana Assets (''Agreement'') is by and between Columbia/HCA Healthcare Corporation (''Columbia/HCA'' or ''respondent''), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business at One Park Plaza, Nashville, Tennessee 37203; and the Federal Trade Commission (''Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.*

Premises

Whereas, on October 4, 1994, Columbia/HCA and Healthtrust Inc.—The Hospital Company (''Healthtrust'') entered into an agreement whereby Columbia/HCA will acquire all the stock of Healthtrust, a wholly-owned subsidiary of Columbia/HCA will be merged with and into Healthtrust, and Healthtrust will operate as a wholly-owned subsidiary of Columbia (the ''Acquisition''); and

Whereas, Columbia/HCA, with its principal place of business at one Park Plaza, Nashville, Tennessee 37203, owns and operates, among other things, acute care hospitals; and

Whereas, the Commission is now investigating the Acquisition to determine if it would violate any of the statutes enforced by the Commission; and

Whereas, if the Commission accepts the Agreement Containing Consent Order (''Consent Order''), which would require the divestiture of certain assets listed in Paragraph II of the Consent Order (''Schedule A Assets and DRMC or Denton Community Hospital'') and termination of certain interests described in Paragraph III of the Consent Order (''SSI Joint Venture''), the Commission must place the Consent Order on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the *status quo ante* of the Schedule A Assets, DRMC and the SSI Joint Venture Interest (collectively the ''Hold Separate Assets''), during the period prior to the final acceptance and issuance of the Consent Order by the Commission (after the 60-day public comment period), divestitures resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be less than an effective remedy; and

Whereas, the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission's ability to require the divestitures of the Schedule A Assets, DRMC or Denton Community Hospital, and the SSI Joint Venture Interest, and the Commission's right to have the Hold Separate Assets continue as viable acute care hospitals independent of Columbia/HCA; and

Whereas, the purposes of this Agreement and the Consent Order are to:

(i) preserve the Hold Separate Assets as viable, competitive, and ongoing acute care hospitals, independent of Columbia/HCA, pending the divestitures of the Schedule A Assets and DRMC or Denton Community Hospital, and the termination of the SSI Joint Venture as required under the terms of the Consent Order;

(ii) prevent interim harm to competition from the operation of the Hold Separate Assets pending the divestitures as required under the terms of the Consent Order;

(iii) remedy any anticompetitive effects of the Acquisition;

Whereas, respondent's entering into this Agreement shall in no way be construed as an admission by respondent that the Acquisition is illegal; and

Whereas, respondent understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

Now, therefore, the parties agree, upon understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission's agreement that, at the time it accepts the Consent Order for public comment it will grant early termination of the Hart-Scott-Rodino waiting period, and unless the Commission determines to reject the Consent Order, it will not seek further relief from respondent with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Agreement and the Consent Order to which it is annexed and made a part thereof, and in the event the required divestitures of the Schedule A Assets and DRMC or Denton Community Hospital, and the termination of the SSI Joint Venture are not accomplished, to appoint a trustee to seek divestitures of said assets pursuant to the Consent Order, to seek civil penalties, to seek a court appointed trustee, and/or seek other equitable relief, as follows:

1. Respondent agrees to execute the Agreement Containing Consent Order and be bound by the Consent Order.

2. Respondent agrees that from the date this Agreement is accepted until the earliest of the dates listed in subparagraphs 2.a or 2.b, it will comply with the provisions of paragraph 3 of this Agreement:

a. three (3) business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's Rules; or

b. the day after the last of the divestitures of the Schedule A Assets and DRMC or Denton Community Hospital, and the termination of the SSI Joint Venture, as required by the Consent Order, is completed.

3. To ensure the complete independence and viability of the hold Separate Assets, and to assure that no competitive information is exchanged between Columbia/HCA and the managers of the Hold Separate Assets, respondent shall hold the Schedule A Assets, DRMC and the SSI Joint Venture Interest, as they are presently constituted, separate and apart on the following terms and conditions:

a. The Hold Separate Assets, as they are presently constituted, shall be held separate and apart and shall be managed and operated

independently of respondent (meaning her and hereinafter, Columbia/HCA excluding the Hold Separate Assets), except to the extent that respondent must exercise direction and control over such assets to assure compliance with this Agreement or the Consent Order, and except as otherwise provided in this Agreement.

b. Prior to, or simultaneously with the Acquisition, respondent shall organize a distinct and separate legal entity, either a corporation, limited liability company, or general or limited partnership (''New Company'') and adopt constituent documents for the New Company that are not inconsistent with other provisions of this Agreement or the Consent Order. Respondent shall transfer (or in the case of the Ville Platte Medical Center, cause the Central Louisiana Healthcare System Limited Partnership (''CLHS'') to transfer) all ownership and control of all Hold Separate Assets to the New Company.

c. The board of directors of the New Company, or, in the event respondent organizes an entity other than a corporation, the government body of the entity (''New Board''), shall have three members. Respondent shall elect the members of the New Board. The New Board shall consist of the following three persons: Winfield C. Dunn, Samuel H. Howard, and David C. Colby, provided they agree, or comparable, knowledgeable persons. The Chairman of the New Board shall be: Winfield C. Dunn (provided he agrees), or a comparable, knowledgeable person, who shall remain independent of Columbia/HCA and competent to assure the continued viability and competitiveness of the Hold Separate Assets and the south Seminole Hospital in Longwood, Florida. The New Board shall include no more than one member who is a director, officer, employee, or agent of respondent, who shall be David C. Colby, provided he agrees, or a comparable knowledgeable person (''the respondent's New Board member''). The New Board shall meet monthly during the course of the Hold Separate, and as otherwise necessary. Meetings of the New Board during the term of this Agreement shall be audiographically transcribed and the tapes retained for two (2) years after the termination of this Agreement.

d. Respondent shall not exercise direction or control over, or influence directly or indirectly, the Hold Separate Assets or South Seminole Hospital, the independent Chairman of the Board of the New Company, the New Board, or the New Company or any of its operations or businesses; provided, however, that respondent may exercise only such direction and control over the New Company as is necessary to assure compliance with this Agreement or the Consent Order, or with all applicable laws. In addition, as to the SSH Joint Venture and South Seminole Hospital, only the following individuals within Columbia/HCA and Healthtrust shall have access to or involvement with termination of the SSI Joint Venture or efforts to divest the SSI Joint Venture Interest: Richard L. Scott, Stephen T. Braun, Donald P. Fay, Ashby Q. Burks, Joseph D. Moore, Phillip D. Wheeler, and George M. Garrett.

e. Respondent shall maintain the viability, competitiveness, and marketability of the Hold Separate Assets; shall not sell, transfer, or encumber said Assets (other than in the normal course of business); and shall not cause or permit the destruction, removal, wasting, or deterioration, or otherwise impair their viability, competitiveness, or marketability of said Hold Separate Assets.

f. Except for the respondent's New Board member, respondent shall not permit any director, officer, employee, or agent of respondent to also be a director, officer, or employee of the New Company.

g. The New Company shall be staffed with sufficient employees to maintain the visibility and competitiveness of the Hold Separate Assets, which employees shall be selected from the existing employee base of each facility or entity and may also be hired from sources other than these facilities and entities.

h. With the exception of the respondent's New Board Member, respondent shall not change the composition of the New Board unless the independent Chairman consents. The independent Chairman shall have power to remove members of the New Board for cause and to require respondent to appoint replacement members to the New Board as provided in Paragraph 3.c. Respondent shall not change the composition of the management of the New Company except that the New Board shall have the power to remove management employees for cause.

i. If the independent Chairman ceases to act or fails to act diligently, a substitute Chairman shall be appointed in the same manner as provided in Paragraph 3.c of this Agreement.

j. Except as required by law, and except to the extent that necessary information is exchanged in the course of evaluating the Acquisition, defending investigations, defending or prosecuting litigation, obtaining legal device, negotiating agreements to divest assets, or complying with this Agreement or the Consent Order, respondent shall not receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about the New Company or the activities of the hospitals operated by the New Board. Access to Material Confidential Information relating to South Seminole Hospital or the SSH Joint Venture, for these limited, stated purposes shall be restricted within Columbia/HCA and Healthrust to those individuals named in Paragraph 3.d, above. Nor shall the New Company or the New Board receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about respondent and relating to respondent's acute care hospitals. Respondent may receive, on a regular basis, aggregate financial information relating to the New Company necessary and essential to allow respondent to prepare United States consolidated financial reports, tax returns, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph. (''Material Confidential Information,'' as used herein, means competitively sensitive or proprietary information not independently known to an entity from sources other than the entity to which the information pertains, and includes, but is not limited to, customer lists, price lists, marketing methods, patents, technologies, processes, or other trade secrets.)

k. Except as permitted by this Agreement, the respondent's New Board member shall not, in his or her capacity as a New Board member, receive Material Confidential Information and shall not disclose any such information received under this Agreement to respondent, or use it to obtain any advantage for respondent. The respondent's New Board member shall enter a confidentiality agreement prohibiting disclosure of Material Confidential Information. The respondent's New Board member shall participate in matters that come before the New Board only for the limited purposes of considering a capital investment or other transaction exceeding $250,000, approving any proposed budget and operating plans, and carrying out respondent's responsibilities under this Agreement and the Consent Order. Except as permitted by this Agreement, the respondent's New Board member shall not participate in any matter, or attempt to influence the votes of the other members of the New Board with respect to matters, that would involve a conflict of interest if respondent and the New Company were separate and independent entities.

l. Any material transaction of the New Company that is out of the ordinary course of business must be approved by a majority vote of the New Board; provided that the New Company shall engage in no transaction, material or otherwise, that is precluded by this Agreement.

m. If necessary, respondent shall provide the New Company with sufficient working capital to operate the Hold Separate Assets at their respective current rates of operation, to meet any capital calls anticipated in respect of the SSH Joint Venture, and to carry out any capital improvement plans for the Schedule A Assets, DRMC and the South Seminole Hospital that have already been approved.

n. Columbia/HCA shall continue to provide the same support services to the Hold Separate Assets as are being provided to such assets by Columbia/HCA or Healthtrust as of the date this Agreement is signed. Columbia/HCA may charge the Hold Separate Assets the same fees, if any, charged by Columbia/HCA or Healthtrust for such support services as of the date of this Agreement. Columbia/HCA personnel providing such support services must retain and maintain all Material Confidential Information of the Hold Separate Assets on a confidential basis, and, except as if permitted by this Agreement, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any person whose employment involves any of respondent's businesses. Such personnel shall also execute confidentiality agreements prohibiting the disclosure of any Material Confidential Information of the Hold Separate Assets.

o. During the period commencing on the date this Agreement is effective and

terminating on the earlier of (i) twelve (12) months after the date the Consent Order becomes final, or (ii) the date contemplated by subparagraph 2.b (the ''Initial Divestiture Period''), respondent shall make available for use by the New Company funds sufficient to perform all necessary routine maintenance to, and replacement of, the Hold Separate Assets (''normal repair and replacement''). Provided, however, that in any event, respondent shall provide the New Company with such funds as are necessary to maintain the viability, competitiveness, and marketability of such Assets.

p. Columbia/HCA shall circulate, to its management employees responsible for the operation of acute care hospitals in any of the relevant areas defined in the Consent Order in this matter, a notice of this Hold Separate and Consent Order in the form attached as Attachment A.

q. The New Board shall serve at the cost and expense of Columbia/HCA. Columbia/HCA shall indemnify the New Board against any losses or claims of any kind that might arise out of its involvement under this Hold Separate, except to the extent that such losses or claims result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the New Board directors.

r. The NEw Board shall have access to and be informed about all companies who inquire about, seek, or propose to buy any Hold Separate Asset.

s. Within thirty days (30) after the date this Agreement is accepted by the Commission and every thirty (30) days thereafter until this Agreement terminates, the New Board shall report in writing to the Commission concerning the New Board's efforts to accomplish the purposes of this Hold Separate. In addition, within thirty days (30) after the date this Agreement is accepted by the Commission and every thirty (30) thereafter until this Agreement terminates, respondent shall file with the Commission a verified written report, setting forth, among other things that may be required from time to time, a detailed memorialization of all communications, both intra-company and with third parties, relating to the termination of the SSH Joint Venture.

4. Should the Commission seek in any proceeding to compel respondent to divest any of the Hold Separate Assets, as provided in the Consent Order, or to seek any other injunctive or equitable relief for any failure to comply with the Consent Order or this Agreement, or in any way relating to the Acquisition, as defined in the draft of complaint, respondent shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Acquisition. Respondent also waives all rights to contest the validity of this Agreement.

5. To the extent that this Agreement requires respondent to take, or prohibits respondent from taking, certain actions that otherwise may be required or prohibited by contract, respondent shall abide by the terms of this Agreement or the Consent Order and shall not assert as a defense such contract requirements in a civil penalty action brought by the Commission to enforce the terms of this Agreement or Consent Order.

6. For the purposes of determining or securing compliance with this Agreement, and subject to any legally recognized privilege, and upon written request with reasonable notice to respondent made to its principal office, respondent shall permit any duly authorized representatives of the Commission:

a. Access, during office hours of respondent and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of the respondent relating to compliance with this Agreement;

b. Upon five (5) days' notice to respondent and without restraint or interference from respondent, to interview officers, directors, or employees of respondent, who may have counsel present, regarding such matters.

7. This Agreement shall not be finding until approved by the Commission.

Attachment A—Notice of Divestiture and Requirement for Confidentiality

Columbia/HCA Healthcare Corporation and Healthtrust Inc.—The Hospital Company have entered into a Consent Agreement and Agreement to Hold Separate with the Federal Trade Commission relating to the divestiture of certain Healthtrust and Columbia/HCA acute care hospitals and the termination of a joint venture agreement (''Assets''). The hospitals to be divested include:

1. Santa Rosa Medical Center, 1450 Berryhill Road, Milton, Florida 32572.

2. North Okaloosa Medical Center, 151 Redstone Avenue Southeast, Crestview, Florida 32536.

3. Denton Regional Medical Center, 4405 North Interstate 35, Denton, Texas 76207 or the Denton Community Hospital, 107 N. Bonnie Brae, Denton, Texas 76201.

4. Ville Platte Medical Center, 800 East Main Street, Ville Platte, Louisiana 70586.

5. Davis Hospital and Medical Center, 1600 West Antelope Drive, Layton, Utah 84041.

6. Pioneer Valley Hospital, 3460 South Pioneer Parkway, West Valley City, Utah 84120, including the Salt Lake Industrial Clinic, 441 S. Redwood Road, Salt Lake City, Utah 84104.

7. Jordan Valley Hospital, 3580 West 9000 South, West Jordan, Utah 84088.

The joint venture agreement that must be terminated involves the joint venture that owns South Seminole Hospital in Longwood, Florida. Columbia/HCA and Healthtrust must terminate the joint venture either by selling Healthtrust's interest in the joint venture or by acquiring the other joint venture partner's interest.

Until after the FTC's Order becomes final and the Assets are divested, the Assets must be managed and maintained as separate, ongoing businesses, independent of all other Columbia/HCA businesses. All competitive information relating to the Assets must be retained and maintained by the persons involved in the operation of the Assets on a confidential basis, and such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any other Columbia/HCA business. Similarly, all such persons involved in Columbia/HCA shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any of the Assets.

Any violation of the Consent Agreement or the Agreement to Hold Separate, incorporated by reference as part of the Consent Order, may subject Columbia/HCA to civil penalties and other relief as provided by law.

Appendix II—Agreement to Hold Separate Regarding the Utah Healthtrust Assets

In the matter of Columbia/HCA Healthcare Corporation, a corporation. File No. 951–0022.

This Agreement to Hold Separate Regarding the Utah Healthtrust Assets (''Agreement'') is by and between Columbia/HCA Healthcare Corporation (''Columbia/HCA'' or ''respondent''), a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business at One Park Plaza, Nashville, Tennessee 37203; and the Federal Trade Commission (''Commission''), an independent agency of the United States Government, established under the Federal Trade Commission Act of 1914, 15 U.S.C. 41, *et seq.*

Premises

Whereas, on October 4, 1994, Columbia/HCA and Healthtrust Inc.—The Hospital Company (''Healthtrust'') entered into an agreement whereby Columbia/HCA will acquire all the stock of Healthtrust, a wholly-owned subsidiary of Columbia/HCA will be merged with and into Healthtrust, and Healthtrust will operate as a wholly-owned subsidiary of Columbia (the ''Acquisition''); and

Whereas, on October 20, 1994, the Commission, with the consent of Healthtrust, issued its complaint and made final its Order to settle charges that the acquisition by Healthtrust of certain assets of Holy Cross Health System Corporation violated Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45 (*In the Matter of Healthtrust, Inc.—The Hospital Company,* Docket No. C–3538); and

Whereas, the Order in Docket No. C–3538 provides that for a period of ten (10) years, Healthtrust shall not permit any acute care hospital it operates in the Three-County Area of Utah, as defined in Paragraph I.G. of the Order in Docket No. C–3538, to be acquired, without the prior approval of the Commission, by any person that operates any other acute care hospital in the Three-County Area; and

Whereas, on February 15, 1995, Healthtrust petitioned the Commission to approve the sale of four Healthtrust acute care hospitals (the ''Utah Healthtrust Hospitals'') to Columbia/HCA; and

Whereas, Columbia/HCA, with its principal place of business at One Park Plaza,

Nashville, Tennessee 37203, owns and operates, among other things, acute care hospitals in the Three-County Area of Utah, and elsewhere; and

Whereas, the Commission is now investigating the Acquisition to determine whether it would violate any of the statutes enforced by the Commission and whether the Commission should approve the Acquisition pursuant to the Order in *In the Matter of Healthtrust, Inc.—The Hospital Company,* Docket No. C–3538); and

Whereas, the Commission has determined to grant Healthtrust the prior approval required for its sale of the Utah Healthtrust Hospitals to Columbia/HCA, conditioned, however, upon Columbia/HCA divesting, as required by the Agreement Containing Consent Order (''Consent Agreement'' or ''Consent Order''), to which this Hold Separate is attached and made a part thereof as Appendix II, three Utah hospitals and related assets (the ''Schedule B Assets'' as defined in Paragraph I of the Consent Order); and

Whereas, if the Commission accepts the Consent Order, which would require the divestiture of the Schedule B Assets pursuant to Paragraph IV of the Consent Order, the Commission must place the Consent Order on the public record for a period of at least sixty (60) days and may subsequently withdraw such acceptance pursuant to the provisions of Section 2.34 of the Commission's Rules; and

Whereas, the Commission is concerned that if an understanding is not reached, preserving the *status quo ante* of the Utah Healthtrust Assets, as identified in Schedule C to the Consent Order, during the period prior to the final acceptance and issuance of the Consent Order by the Commission (after the 60-day public comment period), divestitures resulting from any proceeding challenging the legality of the Acquisition might not be possible, or might be less than an effective remedy; and

Whereas, if the Commission accepts the Consent Order, and Columbia/HCA has not divested with the Commission's prior approval, each Schedule B Asset, in accordance with the Consent Order, within nine (9) months of the date the Commission conditionally approves the Acquisition pursuant to the order in Docket No. C–3538, the Commission may appoint a trustee to divest the Utah Healthtrust Assets, as identified in Schedule C to the Consent Order; and

Whereas, the Commission is concerned that if the Acquisition is consummated, it will be necessary to preserve the Commission's ability to require the divestitures of the Utah Healthtrust Assets and the Commission's right to have the Utah Healthtrust Assets continue as viable acute care hospitals independent of Columbia/HCA; and

Whereas, the purposes of this Agreement and the Consent Order are to:

(i) preserve the Utah Healthtrust Assets as viable, competitive, and ongoing acute care hospitals, independent of Columbia/HCA, pending the divestitures of the Schedule B Assets or the Utah Healthtrust Assets as required under the terms of the Consent Order; and

(ii) prevent interim harm to competition from the operation of the Utah Healthtrust Assets pending divestitures of the Schedule B Assets or the Utah Healthtrust Assets as required under the terms of the Consent Order; and

(iii) remedy any anticompetitive effects of the Acquisition;

Whereas, respondent's entering into this Agreement shall in no way be construed as an admission by respondent that the Acquisition is illegal; and

Whereas, respondent understands that no act or transaction contemplated by this Agreement shall be deemed immune or exempt from the provisions of the antitrust laws or the Federal Trade Commission Act by reason of anything contained in this Agreement.

Now, therefore, the parties agree, upon understanding that the Commission has not yet determined whether the Acquisition will be challenged, and in consideration of the Commission's conditional approval of the Acquisition and its agreement that, at the time it accepts the Consent Order for public comment it will grant early termination of the Hart-Scott-Rodino waiting period, and unless the Commission determines to reject the Consent Order, it will not seek further relief from respondent with respect to the Acquisition, except that the Commission may exercise any and all rights to enforce this Agreement and the Consent Order to which it is annexed and made a part thereof, and the Order in Docket No. C–3538, and in the event the required divestitures of the Schedule B Assets are not accomplished, to appoint a trustee to seek divestitures of the Utah Healthtrust Assets pursuant to the Consent Order, to seek civil penalties, to seek a court appointed trustee, and/or to seek other equitable relief, as follows:

1. Respondent agrees to execute the Agreement Containing Consent Order and be bound by the attached Consent Order.

2. Respondent agrees that from the date this Agreement is accepted until the earliest of the dates listed in subparagraphs 2.a or 2.b, it will comply with the provisions of paragraph 3 of this Agreement:

a. three (3) business days after the Commission withdraws its acceptance of the Consent Order pursuant to the provisions of Section 2.34 of the Commission's Rules; or

b. the day after the last of the divestitures of the Schedule B Assets or the Utah Healthtrust Assets, as required by the Consent Order, is completed.

3. To ensure the complete independence and viability of the Utah Healthtrust Assets, and to assure that no competitive information is exchanged between Columbia/HCA and the managers of the Utah Healthtrust Assets, respondent shall hold the Utah Healthtrust Assets, as they are presently constituted, separate and apart on the following terms and conditions:

a. The Utah Healthtrust Assets, as they are presently constituted, shall be held separate and apart and shall be managed and operated independently of respondent (meaning here and hereinafter, Columbia/HCA excluding the Utah Healthtrust Assets), except to the extent that respondent must exercise direction and control over such assets to assure compliance with this Agreement or the Consent Order, and except as otherwise provided in this Agreement.

b. Prior to, or simultaneously with the Acquisition, respondent shall transfer all ownership and control of all Utah Healthtrust Assets to HTI of Utah, Inc.

c. The board of directors of HTI of Utah, Inc. (''HTI Board''), shall have three members. Respondent shall elect the members of the HTI Board. The HTI Board shall consist of the following three persons: (i) Kent H. Wallace; (ii) Kenneth W. Perry; and (iii) David C. Colby, provided they agree, or comparable, knowledgeable persons. The Chairman of the HTI Board shall be Kent H. Wallace, provided he agrees, or a comparable knowledgeable person, who shall remain independent of Columbia/HCA and competent to assure the continued viability and competitiveness of the Healthtrust Utah Assets. The HTI Board shall include no more than one member who is a director, officer, employee, or agent of respondent, who shall be David C. Colby, provided he agrees, or a comparable, knowledgeable person (''the respondent's HTI Board member''). The HTI Board shall meet monthly during the course of the Hold Separate, and as otherwise necessary. Meetings of the HTI Board during the term of this Agreement shall be audiographically transcribed and the tapes retained for two (2) years after the termination of this Agreement.

d. Respondent shall not exercise direction or control over, or influence directly or indirectly, the Utah Healthtrust Assets, the independent Chairman of the Board of the HTI of Utah Inc., HTI of Utah Inc., or any of its operations or businesses; provided, however, that respondent may exercise only such direction and control over HTI of Utah Inc. as is necessary to assure compliance with this Agreement or the Consent Order, or with all applicable laws.

e. Respondent shall maintain the viability, competitiveness, and marketability of the Utah Healthtrust Assets, shall not sell, transfer, or encumber said Assets (other than in the normal course of business); and shall not cause or permit the destruction, removal, wasting, or deterioration, or otherwise impair their viability, competitiveness, or marketability of said Assets.

f. Except for the respondent's HTI Board member, respondent shall not permit any director, officer, employee, or agent of respondent to also be a director, officer, or employee of HTI of Utah Inc.

g. HTI Utah of Utah Inc. shall be staffed with sufficient employees to maintain the viability and competitiveness of the Utah Healthtrust Assets, which employees shall be selected from the existing employee base of each facility or entity and may also be hired from sources other than these facilities and entities.

h. With the exception of the respondent's HTI Board Member, respondent shall not change the composition of the HTI Board unless the independent Chairman consents. The independent Chairman shall have power to remove members of the HTI Board for cause and to require respondent to appoint replacement members to the New Board as provided in Paragraph 3.c. Respondent shall

not change the composition of the management of HTI of Utah Inc., except that the HTI Board shall have the power to remove management employees for cause.

i. If the independent Chairman ceases to act or fails to act diligently, a substitute Chairman shall be appointed in the same manner as provided in Paragraph 3.c of this Agreement.

j. Except as required by law, and except to the extent that necessary information is exchanged in the course of evaluating the Acquisition, defending investigations, defending or prosecuting litigation, obtaining legal advice, negotiating agreements to divest assets, or complying with this Agreement or the Consent Order, respondent shall not receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about HTI of Utah Inc., or the activities of or the hospitals operated by the HTI Board. Nor shall HTI of Utah Inc. or the HTI Board receive or have access to, or use or continue to use, any Material Confidential Information not in the public domain about respondent and relating to respondent's acute care hospitals. Respondent may receive, on a regular basis, aggregate financial information relating to HTI of Utah Inc. necessary and essential to allow respondent to prepare United States consolidated financial reports, tax returns, and personnel reports. Any such information that is obtained pursuant to this subparagraph shall be used only for the purposes set forth in this subparagraph. (''Material Confidential Information,'' as used herein, means competitively sensitive or proprietary information not independently known to an entity from sources other than the entity to which the information pertains, and includes, but is not limited to, customer lists, price lists, marketing methods, patents, technologies, processes, or other trade secrets.)

k. Except as permitted by this Agreement, the respondent's HTI Board member shall not, in his or her capacity as an HTI Board member, receive Material Confidential Information and shall not disclose any such information received under this Agreement to respondent, or use it to obtain any advantage for respondent. The respondent's HTI Board member shall enter a confidentiality agreement prohibiting disclosure of Material Confidential Information. The respondent's HTI Board member shall participate in matters that come before the HTI Board only for the limited purposes of considering a capital investment or other transaction exceeding $250,000, approving any proposed budget and operating plans, and carrying out respondent's responsibilities under this Agreement and the Consent Order. Except as permitted by this Agreement, the respondent's HTI Board member shall not participate in any matter, or attempt to influence the votes of the other members of the HTI Board with respect to matters, that would involve a conflict of interest if respondent and HTI of Utah Inc. were separate and independent entities.

l. Any material transaction of HTI of Utah Inc. that is out of the ordinary course of business must be approved by a majority vote of the HTI Board; provided that HTI of Utah Inc. shall engage in no transaction, material or otherwise, that is precluded by this Agreement.

m. If necessary, respondent shall provide HTI of Utah Inc. with sufficient working capital to operate the Utah Healthtrust Assets at their respective current rates of operation and to carry out any capital improvement plans for the Utah Healthtrust Assets that have already been approved.

n. Columbia/HCA shall continue to provide the same support services to the Utah Healthtrust Assets, as are being provided to such Assets by Healthtrust as of the date this Agreement is signed. Columbia/HCA may charge the HTI of Utah Inc. the same fees, if any, charged by Healthtrust for such support services as of the date of this Agreement. Columbia/HCA personnel providing such support services must retain and maintain all material confidential information of the Utah Healthtrust Assets on a confidential basis, and, except as is permitted by this Agreement, such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any person whose employment involves any of respondent's businesses. Such personnel shall also execute confidentiality agreements prohibiting the disclosure of any Material Confidential Information of the Utah Healthtrust Assets.

o. During the period commencing on the date this Agreement is effective and terminating on the earlier of (i) twelve (12) months after the date the Consent Order becomes final, or (ii) the date contemplated by subparagraph 2.b (the ''Initial Divestiture Period''), respondent shall make available for use by HTI of Utah Inc. funds sufficient to perform all necessary routine maintenance to, and replacements of, the Utah Healthtrust Assets (''normal repair and replacement''). Provided, however, that in any event, respondent shall provide HTI of Utah Inc. with such funds as are necessary to maintain the viability, competitiveness, and marketability of such Assets.

p. Columbia/HCA shall circulate, to its management employees responsible for the operation of acute care hospitals in any of the relevant areas defined in the Consent Order in this matter, a notice of this Hold Separate and Consent Order in the form attached as Attachment A.

q. The HTI Board shall serve at the cost and expense of Columbia/HCA. Columbia/HCA shall indemnify the HTI Board against any losses or claims of any kind that might arise out of its involvement under this Hold Separate, except to the extent that such losses or claims result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the HTI Board directors.

r. The HTI Board shall have access to and be informed about all companies who inquire about, seek, or propose to buy any Schedule B Assets or the Utah Healthtrust Assets.

s. Within thirty (30) days after the date this Agreement is accepted by the Commission and every thirty (30) days thereafter until this Agreement terminates, the HTI Board shall report in writing to the Commission concerning the HTI Board's efforts to accomplish the purposes of this Hold Separate.

4. Should the Commission seek in any proceeding to compel respondent to divest any of the Schedule B Assets or the Utah Healthtrust Assets, as provided in the Consent Order, or to seek any other injunctive or equitable relief for any failure to comply with the Consent Order or this Agreement, or in any way relating to the acquisition, as defined in the draft of complaint, respondent shall not raise any objection based upon the expiration of the applicable Hart-Scott-Rodino Antitrust Improvements Act waiting period or the fact that the Commission has permitted the Acquisition. Respondent also waives all rights to contest the validity of this Agreement.

5. To the extent that this Agreement requires respondent to take, or prohibits respondent from taking, certain actions that otherwise may be required or prohibited by contract, respondent shall abide by the terms of this Agreement or the Consent Order and shall not assert as a defense such contract requirements in a civil penalty action brought by the Commission to enforce the terms of this Agreement or Consent Order.

6. For the purposes of determining or securing compliance with this Agreement, and subject to any legally recognized privilege, and upon written request with reasonable notice to respondent made to its principal office, respondent shall permit any duly authorized representatives of the Commission:

a. Access, during office hours of respondent and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and all other records and documents in the possession or under the control of the respondent relating to compliance with this Agreement;

b. Upon five (5) days' notice to respondent and without restraint or interference from respondent, to interview officers, directors, or employees of respondent, who may have counsel present, regarding such matters.

7. This Agreement shall not be binding until approved by the Commission.

Attachment A—Notice of Divestiture and Requirement for Confidentiality

Columbia/RCA Healthcare Corporation and Healthtrust Inc.—The Hospital Company have entered into a Consent Agreement and Agreement to Hold Separate with the Federal Trade Commission relating to the divestiture of certain Healthtrust and Columbia/HCA acute care hospitals and the termination of a joint venture agreement (''Assets''). The hospitals to be divested include:

1. Santa Rosa Medical Center, 1450 Berryhill Road, Milton, Florida 32572.

2. North Okaloosa Medical Center, 151 Redstone Avenue Southeast, Crestview, Florida 32536.

3. Denton Regional Medical Center, 4405 North Interstate 35, Denton, Texas 76207 or the Denton Community Hospital, 107 N. Bonnie Brae, Denton, Texas 76201.

4. Ville Platte Medical Center, 800 East Main Street, Ville Platte, Louisiana 70586.

5. Davis Hospital and Medical Center, 1600 West Antelope Drive, Layton, Utah 84041.

6. Pioneer Valley Hospital, 3460 South Pioneer Parkway, West Valley City, Utah 84120, including the Salt Lake Industrial Clinic, 441 S. Redwood Road, Salt Lake City, Utah 84104.

7. Jordan Valley Hospital, 3580 West 9000 South, West Jordan, Utah 84088.

The joint venture agreement that must be terminated involves a joint venture that owns South Seminole Hospital in Longwood, Florida. Columbia/HCA and Healthtrust must terminate the joint venture either by selling Healthtrust's interest in the joint venture or by acquiring the other joint venture partner's interest.

Until after the FTC's Order becomes final and the Assets are divested, the Assets must be managed and maintained as separate, ongoing businesses, independent of all other Columbia/HCA businesses. All competitive information relating to the Assets must be retained and maintained by the persons involved in the operation of the Assets on a confidential basis, and such persons shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any other Columbia/HCA business. Similarly, all such persons involved in Columbia/HCA shall be prohibited from providing, discussing, exchanging, circulating, or otherwise furnishing any such information to or with any other person whose employment involves any of the Assets.

Any violation of the Consent Agreement or the Agreement to Hold Separate, incorporated by reference as part of the Consent Order, may subject Columbia/HCA to civil penalties and other relief as provided by law.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, a proposed consent order from Columbia/HCA Healthcare Corporation (''Columbia/HCA''). The agreement is designed to remedy anticompetitive effects stemming from Columbia/HCA's proposed acquisition of Healthtrust, Inc.—The Hospital Company (''Healthtrust'').

The proposed consent order has been placed on the public record for sixty days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Columbia/HCA and Healthtrust both own and/or operate acute care hospitals in various localities around the country. The Commission's draft complaint accompanying the proposed consent order charges that on or about October 4, 1994, Columbia/HCA agreed to acquire all the stock of Healthtrust, and that the Commission has reason to believe that the acquisition, as well as the agreement to enter into the acquisition, may substantially lessen competition, in violation of Section 7 of the Clayton Act and Section 5 of the FTC Act.

According to the draft complaint, the proposed acquisition may have an anticompetitive impact upon competition for acute care hospital services in six localities (''relevant areas'') where Columbia/HCA and Healthtrust are direct competitors. The complaint alleges that the acute care hospital services market in each area is already highly concentrated, and entry by new competitors would be difficult. The complaint alleges that the Commission has reason to believe that the acquisition would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act, unless an effective remedy eliminates the anticompetitive effects. The relevant areas in which the complaint alleges the acquisition may lessen competition, and the hospitals Columbia/HCA and Healthtrust own and/or operate in each relevant area, are as follows:

(1) The Pensacola area, which encompasses the Florida counties of Escambia and Santa Rosa. Columbia/HCA's acute care hospital in this area is the West Florida Regional Medical Center, in Pensacola; and Healthtrust's acute care hospital in this area is the Santa Rosa Medical Center, in Milton.

(2) The Okaloosa area, which encompasses the Florida county of Okaloosa. Columbia/HCA's acute care hospitals in this area are Twin Cities Hospital, in Niceville; Fort Walton Beach Medical Center, in Ft. Walton Beach; and Destin Community Hospital, in Destin. Healthtrust's acute care hospital in this area is North Okaloosa Medical Center, in Crestview.

(3) The Denton area, encompassing the Texas counties of Cooke and Denton (excluding the incorporated city of Lewisville and that portion of Denton County south of Texas highway number 121). Columbia/HCA's acute care hospital in this area is Denton Community Hospital, in Denton; and Healthtrust's acute care hospital in this area is Denton Regional Medical Center, also in Denton.

(4) The Ville Platte-Mamou-Opelousas area, encompassing the Louisiana parishes of Evangeline and St. Landry. Columbia/HCA's acute care hospital in this area is the Ville Platte Medical Center, in Ville Platte; and Healthtrust's acute care hospitals in this area are Savoy Medical Center, in Savoy, and Doctors Hospital of Opelousas, in Opelousas.

(5) The Salt Lake City—Ogden Metropolitan Statistical Area (''MSA''), encompassing three contiguous counties in northern Utah: Weber County, Davis County, and Salt Lake County. This area includes the Salt Lake City area (encompassing Salt Lake County and southern Davis County) and the Ogden area (encompassing Weber County and northern Davis County). Columbia/HCA's acute care hospitals in the MSA are Davis Hospital and Medical Center, in Layton, and St. Mark's Hospital, in Salt Lake City. Healthtrust's acute care hospitals in the MSA are Pioneer Valley Hospital, in West Valley City; Jordan Valley Hospital, in West Jordan; Lakeview Hospital, in Bountiful; and Ogden Regional Medical Center, in Ogden.

(6) The Orlando area, encompassing the Florida counties of Seminole, Orange, and Osceola. Columbia/HCA's acute care hospitals in this area are Central Florida Regional Hospital, in Sanford; Columbia Park Medical Center, in Orlando; Osceola Regional Hospital, in Kissimmee; and Winter Park Memorial Hospital, in Winter Park. Healthtrust's acute care hospital in this area is South Seminole Hospital, in Lakewood. The complaint further alleges that South Seminole Hospital is jointly owned by Healthtrust and the Orlando Regional Health System (''ORHS''), and that ORHS operates four additional hospitals in the Orlando area.

Healthtrust is subject to a prior Commission order issued in *Healthtrust, Inc.—The Hospital Company,* Docket No. C–3538. Under that order, Healthtrust must obtain prior Commission approval before transferring its hospitals in the Salt Lake City area to anyone who operates other hospitals in that relevant area. Healthtrust requested the Commission's prior approval to transfer its hospitals in the Salt Lake City area to Columbia/HCA, and the Commission granted that approval at the same time it accepted this consent agreement with Columbia/HCA for public comment.

The consent order, if issued in final form by the Commission, would settle charges that the acquisition many substantially lessen competition in the six relevant areas. The order contains provisions requiring divestiture by Columbia/HCA of the following acute care hospitals, in five of the relevant areas:

(1) The Pensacola area—Healthtrust's Santa Rosa Medical Center, in Milton;

(2) The Okaloosa area—Healthtrust's North Okaloosa Medical Center, in Crestview;

(3) The Denton area—Healthtrust's Denton Regional Medical Center, in Denton, or in the alternative, Columbia/HCA's Denton Community Hospital, also in Denton;

(4) The Ville Platte-Mamou-Opelousas area—Columbia's Ville Platte Medical Center, in Ville Platte; and

(5) The Salt Lake City—Ogden MSA—Columbia/HCA's Davis Hospital and Medical Center, in Layton, and Healthtrust's Pioneer Valley Hospital, in West Valley City and Jordan Valley Hospital, in West Jordan.

The purpose of these hospital divestitures is to maintain the scope and intensity of competition among general acute care hospitals in each of the foregoing areas, as existed before the acquisition.

In addition, in the Orlando area, Columbia must terminate the joint venture with ORHS in the South Seminole Hospital, in Lakewood, either by buying out the co-venturer's interest, or by selling Healthtrust's interest in the venture. The purpose of the divestiture in the Orlando area is to prevent two major competitors, Columbia/HCA and ORHS, from sharing ownership of the South Seminole Hospital.

The proposed order requires Columbia/HCA to obtain the approval of the Commission for the divestiture of the hospitals in the relevant areas. Under the terms of the order, the required divestitures in four of the areas, the Pensacola area, the Okaloosa area, the Denton area, and the Ville Platte-Mamou-Opelousas area, must be completed within twelve months of the date the order becomes final. In the Salt Lake City–Ogden MSA, Columbia/HCA must divest the identified hospitals within nine months of the date the Commission granted

prior approval for Healthtrust to transfer its hospitals to Columbia/HCA. In the Orlando area, Columbia/HCA must terminate Healthtrust's participation in the South Seminole Hospital within six months of the date the order becomes final.

If the required divestitures in the Pensacola area, the Okaloosa area, the Denton area, and the Ville Platte-Mamou-Opelousas area, are not completed within twelve months, Columbia/HCA would consent to the appointment of a trustee, who would have twelve additional months to effect the divestitures. If the required divestitures in the Salt Lake City–Ogden MSA are not completed within nine months, Columbia/HCA would consent to the appointment of a trustee, who would have twelve months to sell all the Utah assets of Healthtrust, including all the Healthtrust hospitals in Utah. If the joint venture in Orlando is not terminated within six months, Columbia/HCA would consent to the appointment of a trustee, who would have twelve months to sell Healthtrust's interest in the joint venture.

The two hold-separate agreements executed in conjunction with the consent agreement require Columbia/HCA, until the completion of the divestitures or as otherwise specified, to hold separate and preserve the assets and businesses necessary to insure the viability and marketability of the assets to be divested, including all of Healthtrust's assets in the state of Utah. The proposed order provides that approval by the Commission of the divestitures shall be conditioned upon the agreement by the acquirers that, for ten years from the date of the divestiture, it will not sell, without the prior approval of the Commission, to another person operating (or in the process of acquiring) any acute care hospital in the same relevant area.

The order would prohibit Columbia/HCA from acquiring any acute care hospital in any of the six relevant areas without the prior approval of the Federal Trade Commission. It would also prohibit Columbia/HCA from transferring, without prior Commission approval, any acute care hospital it operates in any relevant area to another person operating (or in the process of acquiring) an acute care hospital in the same relevant area. These provisions, in combination, would give the Commission authority to prohibit any substantial combination of the acute care hospital operations of Columbia/HCA with those of any other acute care hospital in the same relevant area, unless Columbia/HCA convinced the Commission that a particular transaction would not endanger competition in that relevant area. The provisions would not apply to acquisitions or sales where the value of the transferred assets is $1 million or less, and the provisions would expire ten years after the order becomes final.

For ten years, the order would prohibit Columbia/HCA from transferring all or any substantial part of any acute care hospital in any relevant area to another party without first filing with the Commission an agreement by the transferee to be bound by the order.

The purpose of this analysis is to invite public comment concerning the proposed order, to assist the Commission in its determination whether to make the order final. This analysis is not intended to constitute an official interpretation of the agreement and order or to modify their terms in any way.

The agreement is for settlement purposes only and does not constitute an admission by Columbia/HCA that its proposed acquisition would have violated the law, as alleged in the Commission's complaint.

Donald S. Clark,

Secretary.

[FR Doc. 95–12589 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. C–3569]

Del Monte Foods Company, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, Del Monte Corporation and Pacific Coast Producers to terminate the purchase option agreement and the provisions of the supply agreement that relate to planning for the 1995 canning season within three days after this order becomes final, and to terminate the remaining provisions of the supply agreement by June 30, 1995. In addition, the order requires the California-based respondents to obtain, for ten years, Commission approval before acquiring any stock or assets of a United States canned fruit manufacturer and before entering into a variety of marketing, packing, or other agreements with competitors.

DATES: Complaint and Order issued April 11, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Ronald Rowe, FTC/S–2105, Washington, DC 20580. (202) 326–2610.

SUPPLEMENTARY INFORMATION: On Friday, January 27, 1995, there was published in the **Federal Register**, 60 FR 5397, a proposed consent agreement with analysis In the Matter of Del Monte Foods Company, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 95–12586 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint, the Decision and Order, and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[Dkt. 9263]

National Dietary Research, Inc., et al.; Proposed Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Florida-based corporation and its owner from making claims regarding weight loss, hunger reduction, calorie absorption, cholesterol reduction, effects on cellulite or body measurements, or any other health benefits of any product or program they advertise or sell, unless the respondents possess competent and reliable scientific evidence to substantiate the claims. Also, the consent agreement would prohibit the respondents from misrepresenting test results, from representing that any advertisement is something other than a paid advertisement, and from representing that an endorsement is typical of the experience of consumers who use the product, unless the claim is substantiated. In addition, the consent agreement would require National Dietary Research to pay $100,000 to the Commission.

DATES: Comments must be received on or before July 24, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston or Richard Cleland, FTC/S–4002, Washington, DC 20580. (202) 326–3153 or 326–3088.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following

consent agreement containing a consent order(s) to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order to Cease and Desist

In the matter of National Dietary Research, Inc., a corporation; The William H. Morris Company, a corporation; and William H. Morris, individually and as an officer of said corporations. Docket No. 9263.

The agreement herein, by and between National Dietary Research, Inc., and The William H. Morris Company, corporations, by their duly authorized officer; and William H. Morris, individually and as an officer of said corporations, hereinafter sometimes referred to as respondents, and their attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rule governing consent order procedures. In accordance therewith the parties hereby agree that:

1. Respondent National Dietary Research, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 1377 K Street, NW., Suite 553, Washington, DC 20005.

Respondent The William H. Morris Company is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 2804 Smitter Road, Tampa, Florida, 33618.

Respondent William H. Morris is an officer of said corporations. He formulates, directs, and controls the policies, acts, and practices of said corporations. His home address is 2906 Smitter Road, Tampa, Florida, 33618.

2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging them with violations of sections 5(a) and 12 of the Federal Trade Commission Act, and have filed answers to said complaint denying said charges.

3. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint, or that the facts as alleged in the compliant, other than jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's rules, the Commission may without further notice to respondents, (1) Issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondents have read the complaint and the order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

9. If it is accepted by the Commission, this Agreement constitutes a full settlement between the Commission and respondents as to the activities alleged in the complaint to have constituted violations of the Federal Trade Commission Act and which occurred prior to the date of entry of the order. As to those activities alleged in the complaint, and which occurred prior to the date of entry of the order, the Commission hereby releases the respondents from all other further liability to the Commission.

Order

I

It is ordered That respondents National Dietary Research, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, The William H. Morris Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, and William H. Morris, individually and as an officer of the corporate respondents, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or program in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that the product or program

a. Provides any weight loss benefit;
b. Is an effective treatment for obesity;
c. Reduces hunger or is an effective appetite suppressant;
d. Decreases the intestinal absorption of calories;
e. Reduces, can reduce or helps reduce serum cholesterol;
f. Provides, can provide or helps provide any other health benefit; or
g. Has any effect on cellulite or on the user's body measurements,

unless, at the time they make such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation. For purposes of this Order, competent and reliable scientific evidence shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective

manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

II

It is further ordered That respondents National Dietary Research, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, The William H. Morris Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, and William H. Morris, individually and as an officer of the corporate respondents, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or program in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication,

a. The existence, contents, validity, results, conclusions, or interpretations of any test or study;
b. The amount of fiber or any other nutrient or dietary constituent contained in or provided by the product or program, whether described in quantitative or qualitative terms;
c. That the product or program contains or provides a high, rich, excellent or superior source of fiber or any other nutrient or dietary constituent using those words or words of similar meaning; or
d. The research activities or other activities of National Dietary Research or any other organization affiliated with respondents.

III

It is further ordered That respondents National Dietary Research, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, The William H. Morris Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, and William H. Morris, individually and as officer of the corporate respondents, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or program in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from creating, producing, selling or disseminating any advertisement that misrepresents, in any manner, directly or by implication, that it is not a paid advertisement.

IV

It is further ordered That respondents National Dietary Research, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, The William H. Morris Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, and William H. Morris, individually and as an officer of the corporate respondents, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or program in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that any endorsement (as ''endorsement'' is defined in 16 CFR 255.0(b)) of a product or program represents the typical or ordinary experience of members of the public who use the product or program, unless at the time of making such representation, the representation is true, and respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates such representation, provided, however, respondents may use such endorsements if the statements or depictions that comprise the endorsements are true and accurate, and if respondents disclose clearly and prominently and in close proximity to the endorsement what they generally expected performance would be in the depicted circumstances or the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

V

Nothing in this Order shall prohibit respondents from making any representation that is specifically permitted in labeling for any product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

VI

Nothing in this Order shall prohibit respondents from making any representation for any drug that is permitted in labeling for any such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration.

VII

It is further ordered That no later than the date that this Order becomes final, respondents National Dietary Research, Inc., a corporation, its successors and assigns, The William H. Morris Company, a corporation, its successors and assigns, and William H. Morris, individually and as officer of the corporate respondents, shall deposit into an escrow account, to be established by the Commission for the purpose of receiving payment due under this Order (''escrow account''), the sum of one hundred thousand dollars ($100,000).

The funds paid by respondents, together with accrued interest, shall, in the discretion of the Commission, be used by the Commission to provide direct redress to purchasers of Food Source One in connection with the acts or practices alleged in the complaint, and to pay any attendant costs of administration. If the Commission determines, in its sole discretion, that redress to purchasers of this product is wholly or partially impracticable or is otherwise unwarranted, any funds not so used shall be paid to the United States Treasury. Respondents shall be notified as to how the funds are distributed, but shall have no right to contest the manner of distribution chosen by the Commission. No portion of the payment as herein provided shall be deemed a payment of any fine, penalty, or punitive assessment.

At any time after this Order becomes final, the Commission may direct the escrow agent to transfer funds from the escrow account, including accrued interest, to the Commission to be distributed as herein provided. The Commission, or its representative, shall, in its sole discretion, select the escrow agent.

Respondents relinquish all dominion, control and title to the funds paid into the escrow account, and all legal and equitable title to the funds vested in the Treasurer of the United States and in the designated consumers. Respondents shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise; and in the event of bankruptcy of respondents, respondents acknowledge that the funds are not part of the debtor's estate, nor does the estate have any claim or interest therein.

VIII

It is further ordered That, for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

1. All materials that were relied upon to substantiate any representation covered by this Order; and
2. All test reports, studies, surveys, demonstrations or other evidence in their possession or control, or of which they have knowledge, that contradict, qualify, or call into question such representation or the basis upon which respondents relied for such representation, including complaints from consumers.

IX

It is further ordered That the corporate respondents shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the corporations such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising under this Order.

X

It is further ordered That the corporate respondents shall distribute a copy of this Order to each of their operating divisions and to each of their officers, agents, representatives, or employees engaged in the preparation or placement of advertisements, promotional materials, product labels or other such sales materials covered by this Order.

XI

It is further ordered That the individual respondent shall, for a period of five (5) years from the date of issuance of this Order, notify the Commission within thirty (30) days in the event of the discontinuance of his present business or employment, the activities of which include the advertising, offering for sale, sale, or distribution of consumer products, and of his affiliation with any new business or employment involving such activities. Each notice of affiliation with any new business or employment shall include respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

XII

It is further ordered That respondents shall, within sixty (60) days after service of this Order upon them and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied or intend to comply with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from National Dietary Research, Inc., William H. Morris Company and William H. Morris, the president and sole owner of the corporate respondents. The respondents sell various tablets made of compressed fiber and other ingredients, which are advertised for their alleged weight loss and cholesterol lowering benefits.

On November 9, 1993, the Commission issued an administrative complaint in this matter (described below), and a complaint and corresponding motion for preliminary injunctive relief was filed in the U.S. district Court for the Middle District of Florida, Tampa Division on November 17, 1993. The administrative complaint was withdrawn from adjudication on January 23, 1993 for the purpose of considering the proposed consent agreement. The preliminary injunctive action was dismissed without prejudice on February 20, 1995.

The proposed consent order has been placed on the public record for sixty (60) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action, or make final the proposed order contained in the agreement.

This matter concerns advertising claims made in connection with the sale of two of the respondents' products, Food Source One (''FS–1''), a purported weight loss and cholesterol lowering tablet containing small amounts of dietary fiber and other ingredients, and Vancol 5000 (''Vancol''), a purported cholesterol lowering tablet containing small amounts of psyllium fiber, chromium picolinate and other ingredients.

The Commission's complaint in this matter charges the respondents with making unsubstantiated claims, in advertisements and promotional materials, regarding the efficacy of FS–1 for weight loss and lowering serum cholesterol and unsubstantiated claims regarding the efficacy of Vancol for lowering serum cholesterol. With regard to FS–1, the complaint alleges that the respondents have represented, directly or by implication, that the product: Causes significant weight loss; causes significant weight loss without dieting or otherwise changing normal eating patterns; is an effectives treatment for obesity; reduces hunger and is an effective appetite suppressant; decreases the intestinal absorption of calories; and may significantly reduce serum cholesterol. The complaint charges that the respondents failed to possess and rely upon a reasonable basis for these representations.

The complaint alleges that the respondents also represented, directly or by implication, that: Scientific studies of certain ingredients contained in FS–1, including studies published in the British Journal or Nutrition and the American Journal of Clinical Nutrition, demonstrate that FS–1 causes significant weight loss; scientific studies of certain ingredients contained in FS–1, including a study published in the British Journal of Nutrition, demonstrate that FS–1 causes significant weight loss without dieting; FS–1 has a high fiber content; National Dietary Research is a bona fide, independent research organization that has conducted research seeking nutritional solutions to world-wide health problems; and certain of the respondents' advertisements for FS–1 are independent newspaper stories and not paid advertisements. The complaint alleges that these representations are false and misleading.

With regard to Vancol, the complaint alleges that the respondents have represented, directly or by implication, that the product significantly reduces serum cholesterol and that it significantly reduces serum cholesterol without dieting or otherwise changing normal eating patterns. The complaint charges that the respondents failed to possess and rely upon a reasonable basis for these representations. The complaint also alleges that the respondents represented, directly or by implication, that scientific studies of certain ingredients contained in Vancol demonstrate that Vancol significantly reduces serum cholesterol. The complaint charges that this representation is false and misleading.

In addition to the above-mentioned complaint allegations, the complaint also alleges that through the use of statements in certain advertisements for

FS–1 and Vancol, the respondents have represented, directly or by implication, that testimonials from consumers appearing in advertisements for FS–1 and Vancol reflect the typical or ordinary experience of members of the public who have used the products. The complaint charges that the respondents failed to possess and rely upon a reasonable basis for these representations.

The proposed order contains provisions designed to remedy the alleged violations. The proposed order also provides for consumer redress of $100,000. In the event that consumer redress is not feasible, the proposed order provides that the funds will be deposited in the United States Treasury.

Part I of the proposed order requires the respondents to cease from making any representation that any product or program provides any weight loss benefit, is an effective treatment for obesity, reduces hunger or suppresses the appetite, decreases the intestinal absorption of calories, reduces serum cholesterol, provides, can provide or helps provide any other health benefit or has any effect on cellulite or on the user's body measurements, unless they possess and rely upon competent and reliable scientific evidence that substantiates the representation. Part II(a) of the order prohibits the respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test or study. Part II (b) and (c), respectively, prohibit misrepresentation of the amount of fiber or any nutrient contained in a product and prohibit false claims that a product is a high source of fiber or any other nutrient. Part II(d) prohibits misrepresentation of the research activities or other activities of National Dietary Research or any other organization affiliated with the respondents.

Part III of the proposed order prohibits the respondents from disseminating any advertisement for any product or program that misrepresents, in any manner, that it is not a paid advertisement. Part IV of the order prohibits representations that testimonials represent the typical or ordinary experience of consumers who use the product, unless the representations are true and the respondents have competent and reliable evidence that substantiates such representations. An additional provision in this Part permits the respondents to use a truthful, non-typical testimonial, if they disclose clearly and prominently in close proximity to the testimonial what the generally expected performance would be in the depicted circumstances, or the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

Parts V and VI of the proposed order contain provisions permitting certain claims that are approved for labels by the FDA, under either the Nutrition Labeling and Education Act, a tentative final or final monograph, or any new drug application approved by the FDA.

Part VII of the proposed order requires the respondents to pay $100,000 in consumer redress, or if that is impracticable, to pay the same amount to the U.S. Treasury.

Parts VIII, IX, X, XI and XII of the proposed order are compliance reporting provisions that require the respondents to: retain all records that would bear on the respondents' compliance with the order; to notify the Commission of any changes in the structure of the corporate respondents that may affect their compliance obligations under the order, or any changes in the business affiliations of the individual respondent relating to the advertising, offering for sale, sale or distribution of consumer products; to distribute copies of the order to the corporate respondents' operating divisions and to those persons responsible for the preparation and review of advertising material covered by the order; and to report to the Commission their compliance with the terms of the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 95–12587 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

[Dkt. 9271]

B.A.T Industries p.l.c., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order permits, among other things, B.A.T Industries and Brown & Williamson Tobacco Corporation to consummate the acquisition of American Tobacco Company, but requires them to divest, within twelve months, six American Tobacco discount cigarette brands and to divest to the purchaser of these brands three American Tobacco full-revenue brands, as well as the American Tobacco manufacturing facility in Reidsville, N.C. If the required divestitures are not completed on time, the consent order permits the Commission to appoint a trustee to complete the transactions. In addition, the consent order requires the respondents, for ten years, to obtain Commission approval before acquiring any interest in a cigarette manufacturer or any assets used to manufacture or distribute cigarettes in the United States.

DATES: Complaint issued November 28, 1994. Order issued April 19, 1995.[1]

FOR FURTHER INFORMATION CONTACT: Joseph Krauss, FTC/H–324, Washington, D.C. 20580. (202) 326–2713.

SUPPLEMENTARY INFORMATION: On Wednesday, January 11, 1995, there was published in the **Federal Register**, 60 FR 2751, a proposed consent agreement with analysis In the Matter of B.A.T Industries p.l.c., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Donald S. Clark,

Secretary.

[FR Doc. 95–12585 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

[File No. 932–3234]

Original Marketing Inc.; Proposed Consent Agreement with Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, the Florida-based

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

corporation, two of its officers and an affiliated advertising agency from making performance or benefit claims for any weight-loss or weight-control product or program or acupressure device unless the claims are true and substantiated by competent and reliable scientific evidence. Also, the proposed consent agreement would prohibit the respondents from misrepresenting any endorsement or testimonial for any weight-loss or weight-control product or program or any acupressure device as representing the typical or ordinary experience of users. In addition, the individual respondents would be required to post a $300,000 performance bond, or to pay that amount into an escrow account, before marketing any weight-loss or weight-control product or program or any acupressure device.

DATES: Comments must be received on or before July 24, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Richard Cleland, FTC/S–4002, Washington, D.C. 20580, (202) 326–3088.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of Original Marketing, Inc., d/b/a ACU–STOP 2000, and Franklin & Joseph, Inc., corporations, Barry A. Weiss, individually and as an officer and director of Original Marketing, Inc., and Roger Franklin, individually and as an officer and director of Original Marketing, Inc. and Franklin & Joseph, Inc., File No. 932–3234.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Original Marketing, Inc. d/b/a Acu-Stop 2000 (''OMI'') and Franklin & Joseph, Inc., corporations; Barry A. Weiss, individually and as an officer and director of Original Marketing, Inc.; and Roger Franklin, individually and as an officer and director of Original Marketing, Inc. and Franklin & Joseph, Inc., hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Original Marketing, Inc. d/b/a Acu-Stop 2000 and Franklin & Joseph, Inc., by their duly authorized officers; Barry A. Weiss, individually and as an officer and director of Original Marketing, Inc.; and Roger Franklin, individually and as an officer and director of Original Marketing, Inc. and Franklin & Joseph, Inc., and their attorney and counsel for the Federal Trade Commission that:

1. Proposed respondent OMI is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 11570 Wiles Road, in the City of Pompano Beach, State of Florida.

Proposed respondent Franklin & Joseph, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 237 Mamaroneck Avenue, in the City of White Plains, State of New York.

Proposed respondent Barry A. Weiss is an officer and director of OMI. He formulates, directs and controls the policies, acts and practices of OMI. He resides at 22471 Vista Wood Way, Boca Raton, Florida.

Proposed respondent Roger Franklin is an officer and director of OMI and Franklin & Joseph, Inc. He formulates, directs and controls the acts and practices of said corporations. He resides at 33 Maplemoor Lane, White Plains, New York.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this Order:

1. ''Component and reliable scientific evidence'' shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

2. ''Acupressure device'' shall mean any product, program, or service that is intended to function by means of the principles of acupressure.

I

It is ordered That respondents, Original Marketing, Inc. and Franklin & Joseph, Inc., corporations, their successors and assigns, and their officers; Barry A. Weiss, individually and as an officer and director of Original Marketing, Inc.; Roger Franklin, individually and as an officer and director of Original Marketing, Inc. and Franklin & Joseph, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of the AcuStop 2000 or any other acupressure device in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that

a. Such product causes significant weight loss;

B. Such product causes significant weight loss without the need to diet or exercise;

C. Such product controls appetite or eliminates a person's craving for food; or

D. Such product is scientifically proven to cause significant weight loss or control appetite.

II

It is further ordered That respondents, Original Marketing, Inc. and Franklin & Joseph, Inc., corporations, their successors and assigns, and their officers; Barry A. Weiss, individually and as an officer and director of Original Marketing, Inc.; Roger Franklin, individually and as an officer and director of Original Marketing, Inc. and Franklin & Joseph, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device in connection with the advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of any weight-loss or weight-control product or program or any acupressure device in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication, regarding the performance, benefits, efficacy, or safety of such product, program, or device unless such representation is true and unless, at the time of making such representation, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III

It is further ordered That respondents, Original Marketing, Inc. and Franklin & Joseph, Inc., corporations, their successors and assigns, and their officers; Barry A. Weiss, individually and as an officer and director of Original Marketing, Inc.; Roger Franklin, individually and as an officer and director of Original Marketing, Inc. and Franklin & Joseph, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of any weight-loss or weight-control product or program or any acupressure device in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any endorsement (as ''endorsement'' is defined in 16 C.F.R. § 255.0(b)) of the product, program, or device represents the typical or ordinary experience of members of the public who use the product, program, or device unless this is the case.

IV

It is further ordered That respondents, Original Marketing, Inc. and Franklin & Joseph, Inc., corporations, their successors and assigns, and their officers; Barry A. Weiss, individually and as an officer and director of Original Marketing, Inc.; Roger Franklin, individually and as an officer and director of Original Marketing, Inc. and Franklin & Joseph, Inc.; and respondents' agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the advertising, packaging, labeling, promotion, offering for sale, sale, or distribution of any weight-loss or weight-control product or program or any acupressure device in or affecting commerce, as ''commerce'' is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the contents, validity, results, conclusions, or interpretations of any test or study.

V

It is further ordered That respondents, and their successors and assigns, are jointly and severally liable for, and shall pay refunds to eligible consumers of Acu-Stop 2000 as provided herein. ''Eligible consumer'' shall mean any person who purchases, or has purchased, an Acu-Stop 2000 from respondents; who returns, or has returned, the device to respondents requesting a refund prior to ninety (90) days after the date this Order becomes final; and who has not previously received a refund. ''Eligible consumer'' shall not include persons who request a credit from a credit card issuer and who do not otherwise request a credit or refund from respondents. Respondents shall provide to the Commission all information necessary to identify eligible consumers and to verify their eligibility.

A. Not later than the date this Order becomes final, respondents shall deposit into an escrow account, to be established by the Commission for the purpose of receiving payments due under the provisions of this Order (''escrow account''), the sum of fifty thousand dollars ($50,000.00). These funds, together with accrued interest, less any amount necessary to pay the costs of administering the escrow account and refund program provided herein, shall be used by the Commission or its representative to pay refunds to those eligible consumers who purchased an Acu-Stop 2000 from respondents prior to January 1, 1995. Any funds remaining in the escrow account after all refunds to consumers under this subparagraph have been paid shall be paid to the United States Treasury.

At any time after this Order becomes final, the Commission may direct the escrow agent to transfer funds from the escrow account, including accrued interest, to the Commission to be distributed as herein provided. Respondents shall be notified as to how the funds are distributed, but shall have no right to contest the manner of distribution chosen by the Commission. The Commission, or its representative, shall, in its sole discretion, select the escrow agent. Costs associated with the administration of the escrow account and refund program provided herein, if any, shall be paid from funds in the escrow account.

Respondents relinquish all dominion, control and title to the funds paid into the escrow account, and all legal and equitable title to the funds shall vest in the Treasurer of the United States and in the designated consumers. Respondents shall make no claim to or demand for the return of the funds, directly or indirectly, through counsel or otherwise; and in the event of bankruptcy of respondents, respondents acknowledge that the funds are not part of the debtor's estate, nor does the estate have any claim or interest therein.

B. Respondents shall pay from their own funds refunds to all eligible consumers who are not paid from the escrow account provided herein. This requirement shall include:

(1) all refund requests from eligible consumers who purchased an Acu-Stop 2000 after January 1, 1995, and

(2) all refund requests under subparagraph A that exceed the amount available in the escrow account.

All refunds required in subparagraph B.1 shall be paid within thirty (30) days after the receipt of the request, or within thirty (30) days after the date this Order becomes final, whichever is later. All refunds required in subparagraph B.2 shall be paid within thirty (30) days after notification to respondents that the funds available in the escrow account to pay refunds have been depleted.

VI

It is further ordered That for three (3) years after this Order becomes final, respondents, and their successors and assigns, shall maintain documents and records demonstrating the manner and form of respondents' compliance with Part V of this Order, and upon request make available to the Commission, at a place it designates for inspection and copying, copies of:

A. All documents and records evidencing the refunds respondents paid, or charge card credits issued, to eligible consumers, as that term is defined in Part V;

B. A list containing the name, mailing address, and purchase price for each eligible consumer who requested a refund;

C. The name and last known address of each consumer who requested a refund but was refused and the reason for each refusal to refund; and

D. Copies of all correspondence and other communications to, or from, any consumers regarding a refund.

VII

It is further ordered the respondents Barry A. Weiss, Roger Franklin, and their agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division, joint venture or other device, do forthwith cease and desist from advertising, promoting, offering for sale, selling, or distributing any weight-loss or weight-control product or program or any acupressure device to the general public, unless, prior to advertising, promoting, offering for sale, selling, or distributing to the general public any such product, respondents Weiss and Franklin first obtain a performance bond in the principal sum of three hundred thousand dollars ($300,000). Said bond shall be conditioned upon compliance by respondents Weiss and Franklin with the provisions of the Federal Trade Commission Act, and with the provisions of this Order. The bond shall be deemed continuous and remain in full force and effect as long as respondents Weiss and Franklin continue to advertise, promote, offer for sale, sell, or distribute any weight-loss or weight-control product or program or any acupressure device, directly or indirectly, to the general public, and for at least five (5) years after they have ceased any such activity. The bond shall cite this Order as the subject matter of the bond and provide surety against respondents' failure to pay consumer redress or disgorgement as set forth herein. Such performance bond shall be an influence agreement providing surety issued by a surety company that is admitted to do business in a state in which respondents Weiss and Franklin are doing business and that holds a Federal Certificate of Authority as Acceptable Surety on Federal Bonding and Reinsuring.

Respondents Weiss and Franklin shall provide a copy of such performance bond to the associate director of the Federal Trade Commission's Division of Enforcement, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580, prior to the commencement of any business for which such bond is required.

Provided, however, in lieu of a performance bond, respondents Weiss and Franklin may establish and fund, pursuant to the terms set forth herein, an escrow account in the principal sum of three hundred thousand dollars ($300,000) in cash, or such other assets of equivalent value, which the Commission, or its representative, in its sole discretion may approve. Respondents Weiss and Franklin shall maintain such amount in that account for as long as they continue to advertise, promote, offer for sale, sell, or distribute any weight-loss or weight-control product or program or any acupressure device, directly or indirectly, to the general public, and for at least five (5) years after they have ceased any such activity. Respondents Weiss and Franklin shall pay all costs associated with the creation, funding, operation, and administration of the escrow account. The Commission, or its representative, shall, in its sole discretion, select the escrow agent. The escrow agreement shall be in substantially the form attached to this Order as Exhibit A.

The performance bond or escrow agreement shall provide that the surety company or escrow agent, within thirty (30) days following receipt of notice that a final judgment or an order of the Commission against respondent Weiss and/or respondent Franklin for consumer redress or disgorgement in an action brought under the provisions of the Federal Trade Commission Act has been entered, or, in the case of an order of the Commission, has become final, finding that Weiss and/or Franklin has violated the terms of this Order or the Federal Trade Commission Act, and determining the amount of consumer redress or disgorgement to be paid, shall pay to the Commission so much of the performance bond or funds of the escrow account as does not exceed the amount of consumer redress or disgorgement ordered, and which remains unsatisfied at the time notice is provided to the surety company or escrow agent, *provided that,* if respondents have agreed to the entry of a court order or an order of the Commission, a specific finding that respondents violated the terms of this Order or the provisions of the Federal Trade Commission Act shall not be necessary. A copy of the notice provided for herein shall be mailed to respondent Weiss and/or respondent Franklin at their last known address.

Respondents Weiss and Franklin may not disclose the existence of the performance bond or escrow account to any consumer, or other purchaser or prospective purchaser, to whom a covered product, program, or device is advertised, promoted, offered for sale, sold, or distributed, without also disclosing at the same time and in a like manner that the performance bond or escrow account is required by order of the Federal Trade Commission in settlement of changes that respondents engaged in false and misleading representations.

VIII

It is further ordered That for five (5) years after the last date of dissemination of any representation covered by this Order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal

Trade Commission or its staff for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IX

It is further ordered That respondents, Original Marketing, Inc. and Franklin & Joseph, Inc., shall:

A. Within thirty (30) days after service of this Order, provide a copy of this Order to each of respondents' current principals, officers, directors and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this Order; and

B. For a period of five (5) years from the date of issuance of this Order, provide a copy of this Order to each of respondents' future principals, officers, directors, and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this Order who are associated with respondents or any subsidiary, successor, or assign, within three (3) days after the person assumes his or her position.

X

It is further ordered That respondents, Original Marketing, Inc. and Franklin & Joseph, Inc., shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in their corporate structures, including but not limited to dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, the planned filing of a bankruptcy petition, or any other corporate change that may affect compliance obligations arising out of this Order.

XI

It is further ordered That respondents, Barry A. Weiss and Roger Franklin, shall, for a period of five (5) years from the date of issuance of this Order, notify the Commission within thirty (30) days of the discontinuance of his present business or employment and of his affiliation with any new business or employment. Each notice of affiliation with any new business or employment shall include respondents' new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his duties and responsibilities.

XII

It is further ordered That respondents, Original Marketing, Inc. and Franklin & Joseph, Inc., corporations, their successors and assigns, and their officers; Barry A. Weiss, individually and as an officer and director of Original Marketing, Inc.; and Roger Franklin, individually and as an officer and director of Original Marketing, Inc. and Franklin & Joseph, Inc., shall, within sixty (60) days after service of this Order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Exhibit A

This Escrow Agreement, made and entered into this _____ day of _____, ____, by and between _____ (hereinafter ''_____''); and the Federal Trade Commission, an agency of the Government of the United States of America, by and through _____ (hereinafter ''FTC''); and _____ (hereinafter ''Escrow Agent'');

Witnesseth:

Whereas, the FTC and _____ have entered into an Agreement Containing Consent Order to Cease and Desist (hereinafter ''Consent Order''), a copy of which is attached hereto as Exhibit A; and

Whereas, the Consent Order requires that _____ cease and desist from advertising, promoting, offering for sale, selling, or distributing any weight-loss or weight-control product or program or any acupressure device to the general public unless _____ first establishes and maintains an escrow account, under the terms and conditions specified in the Consent Order;

Now, Wherefore, in accordance with the terms of the Consent Order, which are incorporated herein by reference, the parties covenant and agree as follows:

1. _____ shall establish an Escrow Account at _____, to be styled _____ Escrow Account, _____, Escrow Agent. _____ shall deposit into the Escrow Account an initial sum of at least three hundred thousand dollars ($300,000.00) in cash, or other approved assets of equivalent value. Thereafter, _____ shall deposit such additional amounts into the Escrow Account as are necessary to maintain the total amount in the Escrow Account at three hundred thousand dollars ($300,000.00).

2. The Escrow Agent shall be the sole signatory on the Escrow Account and access to the funds held in that account shall be solely through the Escrow Agent. It is understood by the parties to this Escrow Agreement that upon the signing of this Agreement, _____ relinquishes to the Escrow Agent, all legal title to the escrow funds, except as to such amounts in the Escrow Account that are in excess of three hundred thousand dollars ($300,000.00). Until and unless the Escrow Account is terminated as provided for herein, _____ agrees to make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise; and, in the event of bankruptcy, _____ acknowledges that the funds are not part of _____'s estate, nor does the estate have any claim or interest therein.

3. The Escrow Agent and the parties hereto agree that the escrow funds shall be held only in accordance with the terms of the Consent Order and the Escrow Agreement. _____ shall pay all costs associated with the creation, funding, operation, and administration of the Escrow Account as they become due. In the event that _____ fails to pay such costs as they become due, the Escrow Agent shall pay the costs from the interest earned on the escrow funds.

4. The Escrow Agent, within thirty days following receipt of notice that a final judgment or an order of the Commission against _____ for consumer redress or disgorgement in an action brought under the provisions of the Federal Trade Commission Act has been entered, or, in the case of an order of the Commission, has become final, finding that ____ has violated the terms of the Consent Order or the provisions of the Federal Trade Commission Act, and determining the amount of consumer redress or disgorgement to be paid, which notice shall also be mailed to _____ at his last known address, shall pay to the Commission so much of the funds of the Escrow Account as does not exceed the amount of consumer redress or disgorgement ordered, and which remains unsatisfied at the time notice is provided to the Escrow Agent, *provided that,* If _____ has agreed to the entry of a court order or an order of the Commission, a specific finding that _____ violated the terms of the Consent Order or the provisions of the Federal Trade Commission Act shall not be necessary. The Escrow Agent shall have the power to convert to cash so

much of the Escrow Account assets as are necessary to satisfy the obligations of the judgment or order .

5. The Escrow Account shall continue until at least five years after _____ last advertises, promotes, offers for sale, sells, or distributes any product specified in the Consent Order, at which time, if there are no pending FTC investigations, legal or administrative actions by the FTC against _____, or unsatisfied obligations pursuant to a judgment or order described in paragraph 4 herein, for which a claim could be made against the escrow funds under the terms of the Consent Order, the FTC shall, upon _____'s request, instruct the Escrow Agent to terminate the Escrow Account and return the balance of the Escrow Account to _____. At such time, the Escrow Agent shall be fully and completely released from its agency as herein described. The legal title to the escrow funds shall vest in _____ at such time as the Escrow Agent, pursuant to instructions from the FTC, returns the funds to _____.

Witness the signatures of the parties, the day and year first above written.

Date:

Signatures

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from proposed respondents Original Marketing, Inc. d/b/a Acu-Stop 2000; Franklin & Joseph, Inc.; Barry A. Weiss; and Roger Franklin.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns advertising related to the sale of an ear-mold acupressure device, marketed under the name Acu-Stop 2000, which nests in the ear. The Commission's Complaint charges that proposed respondents Original Marketing, Inc. d/b/a Acu-Stop 2000; Franklin & Joseph, Inc.; Barry A. Weiss; and Roger Franklin falsely represented that the Acu-Stop 2000: (1) Causes significant weight loss; (2) causes significant weight loss without the need to diet or exercise; and (3) controls appetite or eliminates a person's craving for food.

The Complaint also alleges that proposed respondents falsely and misleadingly represented that they possessed and relied upon a reasonable basis when they made those claims. The Complaint further alleges that proposed respondents falsely represented that the Acu-Stop 2000 is scientifically proven to cause significant weight loss and control appetite. Finally, the Complaint alleges that proposed respondents falsely represented that testimonials from consumers appearing in advertisements for the Acu-Stop 2000 reflect the typical or ordinary experience of members of the public who have used the device.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Part I of the proposed order prohibits proposed respondents from representing that the Acu-Stop 2000 or any other acupressure device: (1) Causes significant weight loss; (2) causes significant weight loss without the need to diet or exercise; (3) controls appetite or eliminates a person's craving for food; or (4) is scientifically proven to cause significant weight loss and control appetite. The order defines ''acupressure device'' as ''any product, program, or service that is intended to function by means of the principles of acupressure.'' Part II requires proposed respondents to possess competent and reliable scientific evidence before making representations regarding the performance, benefits, efficacy, or safety of any weight-loss or weight-control product or program or any acupressure device. Part III prohibits proposed respondents from falsely claiming that endorsements or testimonials for any weight-loss or weight-control product or program or any acupressure device represent the typical or ordinary experience of members of the public who use the product, program, or device. Part IV prohibits proposed respondents from misrepresenting the results of tests or studies for any weight-loss or weight-control product or program or any acupressure device.

Part V holds proposed respondents jointly and severally liable for, and requires them to pay, refunds to all purchasers of the Acu-Stop 2000 who return or have returned the device for a refund. Part V.A. requires respondents to deposit $50,000 into an escrow account for payment of refunds to eligible consumers who purchased the device prior to January 1, 1995, and who previously have requested a refund or do so within ninety days after the proposed order becomes final. Part V.B. requires proposed respondents to pay, out of their own funds, all refund requests from eligible consumers that exceed $50,000 and all such requests for purchases made after January 1, 1995. Together, these two provisions require proposed respondents to pay all existing refund requests and future requests made up to ninety days after the proposed order becomes final. Part VI requires that proposed respondents maintain records demonstrating the manner and form of their compliance with the requirement that they make refunds.

Part VII requires that proposed respondents Weiss and Franklin post a bond or fund an escrow account in the amount of $300,000 prior to the future marketing any weight-loss or weight-control product or program or any acupressure device.

Part VIII requires proposed respondents to maintain, for five (5) years, all materials that support, contradict, qualify, or call into question any representations they make which are covered by the proposed order. Part IX requires proposed respondents Original Marketing, Inc. and Franklin & Joseph, Inc. to distribute a copy of the order to current and future principals, officers, directors, and managers, as well as to any employees having sales, advertising, or policy responsibility with respect to the subject matter of the order. Under Part X of the proposed order, proposed respondents Original Marketing, Inc. and Franklin & Joseph, Inc. shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in their corporate structures that may affect compliance with the order's obligations. Part XI requires that proposed respondents Weiss and Franklin, for a period of five (5) years, notify the Commission of any change in their business or employment. Part XII obliges proposed respondents to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 95–12588 Filed 5–22–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

The Regional Offices of the Administration for Children and Families Statement of Organization, Functions, and Delegations of Authority

This Notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (DHHS), Administration for Children and Families (ACF) as follows: Chapter KD, The Regional Offices of the Administration for Children and Families (58 FR 44343), as last amended, August 20, 1993. This reorganization realigns the functions in Region 6 to support their streamlining plan. This Chapter is amended as follows:

1. KD.10 Organization. Regions 1, 3, 4, 5, 7 through X are organized as follows:

Office of the Regional Administrator (KD1A, KD3A, KD4A, KD5A, KD7A through KDXA)
Office of Financial Operations (KD1B, KD3B, KD4B, KD5B, KD7B through KDXB)
Office of Family Security (KD1C, KD3C, KD4C, KD5C, KD7C through KDXC)
Office of Family Supportive Services (KD1D, KD3D, KD4D, KD5D, KD7D through KDXD)

After the end of KD2.20 Functions, Paragraph D, insert the following:

2. KD6.10 Organization. The Administration for Children and Families, Region 6, is organized as follows:

Office of the Regional Administrator (KD6A)
Office of State and Tribal Programs (KD6E)
Office of Community Programs (KD6F)

Functions. A. The Office of the Regional Administrator is headed by a Regional Administrator. In addition, the Office of the Regional Administrator has a Deputy Regional Administrator who reports to the Regional Administrator. The Office provides executive leadership and directives to state, county, city, territorial and tribal governments, as well as public and private local grantees to ensure effective and efficient program and financial management. It ensures that these entities conform to federal laws, regulations, policies and procedures governing the programs, and exercises all delegated authorities and responsibilities for oversight of the programs. The office takes action to approve state plans and submits recommendations to the Assistant Secretary for Children and Families concerning state plan disapproval. The Office contributes to the development of national policy based on regional perspectives on all ACF programs. It oversees ACF operations, the management of ACF regional staff; coordinates activities across regional programs; and assures that goals and objectives are met and departmental and agency initiatives are carried out. The Office alerts the Assistant Secretary for Children and Families to problems and issues that may have significant regional or national impact. The Office represents ACF at the regional level in executive communications within ACF, with the HHS Regional Director, other HHS operating divisions, other federal agencies, and public or private local organizations representing children and families.

Within the Office of the Regional Administrator, the Program Coordinator and Planning Unit (PCPU), headed by the Executive Officer and consisting of administrative staff, assists the Regional Administrator and Deputy Regional Administrator in providing day-to-day support for regional administrative functions, including budget, internal systems, employee relations and human resource development activities. The PCPU develops and implements the regional planning process. Tracking, monitoring and reporting on regional progress in the attainment of ACF national goals and objectives are carried out. The PCPU coordinates public awareness activities, information dissemination and education campaigns in accordance with the ACF Office of Public Affairs and in conjunction with the HHS Regional Director. The Unit also assists the Regional Administrator in management of cross-cutting initiatives and activities among the regional components, and ensures effective and efficient management of internal automation processes.

B. The Office of State and Tribal Programs is headed by an Assistant Regional Administrator who reports to the Regional Administrator. The Office is responsible for providing centralized management, financial management services, and technical administration of ACF formula, block and entitlement programs such as Aid to Families with Dependent Children (AFDC), Child Support Enforcement (CSE), Job Opportunities and Basic Skills Training (JOBS), Title IV–A Child Care, Child Care and Development Block Grant (CCDBG), Child Welfare Services, Foster Care and Adoption Assistance, Child Abuse and Neglect and Developmental Disabilities. The Office provides policy guidance to state, county, city or town and tribal governments and public and private organizations to assure consistent and uniform adherence to federal requirements governing formula and entitlement programs. State plans are reviewed and recommendations concerning state plan approval or disapproval are made to the Regional Administrator. The Office provides technical assistance to entities responsible for administering these programs to resolve identified problems, ensures that appropriate procedures and practices are adopted, monitors the programs to ensure their efficiency and effectiveness, establishes regional financial management priorities and reviews cost allocation plans, and oversees the management and coordination of office automation systems in the regional and monitors state systems projects for the CSE, AFDC, Child Welfare and JOBS programs. The Office provides financial management services for ACF formula and entitlement grants in the region. Also reviews cost estimates and reports for ACF entitlement and formula grant programs and recommends funding levels. The Office performs systematic fiscal reviews and makes recommendations to the Regional Administrator to approve, defer or disallow claims for federal financial participation in ACF formula and entitlement grant programs. As applicable, recommendations are made on the clearance and closure of audits of state programs, paying particular attention to financial management deficiencies that decrease the efficiency and effectiveness of the ACF programs and taking steps to monitor the resolution of such deficiencies. The Office represents the Regional Administrator in dealing with ACF Program Offices on all program and financial policy matters under its jurisdiction. Alerts or early warnings are provided to the Regional Administrator regarding problems or issues that may have significant implications for the programs.

C. The Office of Community Programs is headed by an Assistant Regional Administrator who reports to the Regional Administrator. The Office is responsible for providing centralized management, financial management services, and technical administration of ACF discretionary grant programs such as Head Start and Runaway and

Homeless Youth (RHY). In that regard, the Office provides policy guidance to state, county, city or town and tribal governments and public and private organizations to assure consistent and uniform adherence to federal requirements. The Office provides technical assistance to entities responsible for administering these programs to ensure that appropriate procedures and practices are adopted, and monitors the programs to ensure their efficiency and effectiveness. The Office performs systematic fiscal reviews and makes recommendations to the Regional Administrator to approve or disallow costs under ACF discretionary grant programs. The Office issues certain discretionary grant awards based on a review of project objectives, budget projections, and proposed funding levels. As applicable, recommendations are made on the clearance and closure of audits of grantee programs, paying particular attention to financial management deficiencies that decrease the efficiency and effectiveness of the ACF programs and taking steps to monitor the resolution of such deficiencies. The Office oversees the management and coordination of office automation systems in the region such as the PC Cost and HS Cost systems for budget analysis on Head Start Applications and monitors grantee systems projects such as the Head Start Program Information Report, Head Start Management Tracking System and the Youth Development and Head Start Bulletin Board. The Office represents the Regional Administrator in dealing with ACF Program Offices on all program policy and financial matters under its jurisdiction. Alerts or early warnings are provided to the Regional Administrator regarding problems or issues that may have significant implications on the programs.

Dated: May 15, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

[FR Doc. 95–12550 Filed 5–22–95; 8:45 am]

BILLING CODE 4148–01–M

Office of Refugee Resettlement; Statement of Organization, Functions, and Delegations of Authority

This Notice amends Part K, Chapter K of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services, Administration for Children and Families (56 FR 42332) as last amended, August 27, 1991; KR, The Office of Refugee Resettlement (59 FR 23888), as last amended, May 9, 1994. This reorganization will realign the functions of the Office of Refugee Resettlement into two divisions, thereby improving the efficiency and effectiveness of the refugee activities in the Administration for Children and Families. Specifically, we are amending Chapter KR with the following:

KR.00 Mission. The Office of Refugee Resettlement (ORR) advises the Secretary, through the Assistant Secretary for Children and Families, on matters relating to refugee resettlement, immigration, and repatriation. The Office plans, develops and directs implementation of a comprehensive program for domestic refugee and entrant resettlement assistance. It develops, recommends, and issues program policies, procedures and interpretations to provide program direction. The Office monitors and evaluates the performance of states and other public and private agencies in administering these programs and supports actions to improve them. It provides leadership and direction in the development and coordination of national public and private programs that provide assistance to refugees, entrants, and other immigrants.

The Office also plans, develops and provides direction on the administration of the U.S. Repatriate Program.

KR.10 Organization. The Office of Refugee Resettlement is headed by a Director who reports directly to the Assistant Secretary for Children and Families and consists of:

Office of the Director [KRA]
Division of Refugee Self-Sufficiency [KRE]
Division of Community Resettlement [KRF]

KR.20 Functions. A. Office of the Director is directly responsible to the Assistant Secretary for Children and Families for carrying out ORR's mission and providing guidance and general supervision to the components of ORR. Within the Office of the Director, staff assist the Director in managing the formulation of program policy and budget and in the formulation of salaries and expense budgets. Staff also provide administrative, personnel and data processing support services.

The Office coordinates with the lead refugee and entrant program offices of other federal departments; provides leadership in representing refugee and entrant programs, policies and administration to a variety of governmental entities and other public and private interests; and acts as the coordinator of the total refugee and entrant resettlement effort for ACF and the Department.

B. Division of Refugee Self-Sufficiency provides direction for assuring that refugees are provided assistance and services through the State-administered program and alternative programs such as the voluntary agency program and Wilson/Fish projects in a manner that helps refugees to become employed and economically self-sufficient as soon after their arrival in the United States as possible. It monitors and provides technical assistance to the state-administered domestic assistance programs and develops guidance and procedures for their implementation; manages special initiatives to increase refugee self-sufficiency such as through demonstration or pilot programs; manages the unaccompanied minors program to ensure that refugee and entrant unaccompanied minors are provided appropriate care and services; manages the allocation and tracking of funds for refugee cash and refugee medical assistance and State administrative costs; prepares annual budget estimates and related materials; and develops regulations, legislative proposals, and routine interpretations of policy regarding the State-administered and alternative programs.

C. Division of Community Resettlement directs and manages effective refugee resettlement through the programmatic implementation of grants, contracts and special initiatives associated with national discretionary activity and other activities as specified by the Director or required by Congressional mandate.

The Division ensures the quality of medical screening and initial medical treatment of refugees; collects data and performs analyses on the changing needs of the refugee and entrant population; provides leadership to identify data needs and sources, formulates data and reporting requirements; assists states and private agencies on data reporting and the resolution of reporting problems; compiles, evaluates, and disseminates information on the nationwide performance and costs of refugee service programs; responds to unanticipated refugee and entrant arrivals or significant increases in arrivals to communities where adequate or appropriate services do not exist; strengthens the role of ethnic community national or multi-State organizations to promote economic independence among refugees; provides for English Language Training and provides where specific needs have been shown and recognized by the Director for health (including mental

health) services, social services, educational and other services.

The Division develops Repatriation plans to make arrangements and approve payments for temporary assistance to certain U.S. citizens and dependents repatriated from foreign countries, and for the hospitalization of certain U.S. Nationals repatriated because of mental illness.

Dated: May 17, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

[FR Doc. 95–12551 Filed 5–22–95; 8:45 am]

BILLING CODE 4184–01–M

Centers for Disease Control and Prevention

[Announcement 553]

Cooperative Agreement for Adult Blood Lead Epidemiology Surveillance Programs and/or Intervention Projects to Prevent Adult Lead Poisoning

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for new and competing continuation of State-Based Adult Blood Lead Epidemiology and Surveillance Programs (ABLES) and intervention projects to prevent adult lead poisoning in high-risk industries and occupations. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (To order a copy of Healthy People 2000, see the Section Where To Obtain Additional Information.)

Authority

This program is authorized under the Occupational Safety and Health Act of 1970, section 20(a), (29 U.S.C. 669(a)), and section 22(e)(7), (29 U.S.C. 671(e)(7)).

Smoke-Free Workplace

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Environmental Justice Initiative

Activities conducted under this announcement should be consistent with the Federal Executive Order No. 12898 entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.'' Awardees, to the greatest extent practicable and permitted by law, shall make achieving environmental justice part of its program's mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of lead on minority populations and low-income populations.

Eligible Applicants

Eligible applicants must have regulations for reporting blood lead levels or provide assurances that such regulations will be in place within six months of awarding the cooperative agreement. Eligible applicants are State health departments or other State health agencies or departments deemed most appropriate by the State to direct and coordinate the State's adult lead poisoning prevention program. This eligibility includes health departments or other official organizational authority (agency or instrumentality) of the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. Also eligible are federally recognized Indian tribal governments.

Note: Other official State and territorial agencies with occupational safety and health jurisdiction may also apply. Applicants other than health departments must apply in collaboration with and through their State and territorial health department.

For Surveillance Funds Only: Eligible applicants must have regulations for reporting of blood lead (PbB) levels by both public and private laboratories or provide assurances that such regulations will be in place no later than September 30, 1995. This program is intended to initiate and build capacity for surveillance of adult PbB levels. Therefore, any applicant that already has in place a PbB level surveillance activity must demonstrate how these grant funds will be used to enhance, expand or improve the current activity, in order to remain eligible for funding. CDC funds should be added to blood-lead surveillance funding from other sources, if such funding exists. Applicants other than State health departments must apply in conjunction with their State or territorial health department. If a State agency applying for cooperative agreement funds is other than the official State health department, written concurrence by the State health department must be provided.

(In order to compete for additional funding, applicants that are currently being funded for ''Adult Blood Lead Epidemiology and Surveillance'' programs must submit new supplemental proposals for their surveillance activities, and/or a proposal for an intervention project. These supplements must meet all the above eligibility and will be evaluated as a part of the surveillance program/intervention project objective review.)

Availability of Funds

Surveillance/Intervention Funds

Approximately $539,500 will be available in FY 1995. These funds will be awarded as follows:

Surveillance Programs

A. Approximately $81,000 to fund up to three cooperative agreements for States currently without a lead surveillance program but who meet the eligibility criteria. These awards are expected to range from approximately $25,000 to $30,000 with the average award being approximately $27,000.

B. Approximately $278,500 to fund up to thirteen cooperative agreements. Eligible applicants include those States currently receiving CDC/NIOSH ABLES support and those which provide quarterly data to the national reporting system. These awards are expected to range from $20,000 to $22,000, with the average award being approximately $21,500.

Intervention Project(s)

C. Approximately $180,000 to fund up to two cooperative agreements for intervention projects. These awards are expected to range from $80,000 to $100,000, with the average award being approximately $90,000.

The new awards are expected to begin on or about September 30, 1995. New awards for surveillance programs listed under Parts A and B are made for 12-month budget periods within project periods not to exceed 5 years. Awards for Intervention project(s) under Part C are made for a project period of one year. Funding estimates outlined above are subject to change based on the actual availability of funds and the scope and quality of applications received. Continuation awards within the project period will be made on the basis of satisfactory progress and availability of funds.

These awards are intended to develop, expand, or improve adult blood lead epidemiology and

surveillance programs and/or develop statewide capacity for conducting surveillance of elevated blood-lead levels. Funds for intervention projects are for the development and conduct of projects to reduce adult lead poisoning. Cooperative agreement funds should be used to increase the level of expenditures from State, local, and other funding sources. Awards will be made with the expectation that expanded or improved surveillance activities will continue when awarded funds are terminated at the end of the project period.

Purpose

This program is intended to initiate and build capacity for blood lead level surveillance and/or conduct interventions to prevent adult lead poisoning. Therefore, any applicant that already has a blood lead level surveillance activity in place must demonstrate how these cooperative agreement funds will be used to enhance, expand, or improve the current activity in order to remain eligible for funding.

Cooperative agreement funds should be added to blood lead surveillance funding from other sources, if such funding exists. Funds for this program may not be used in place of any existing funding for blood lead surveillance or intervention activities. Funds should be used to: (1) Collect data on adults with elevated blood lead levels; (2) identify possible sources of lead exposure; (3) monitor medical, occupational, and environmental management of lead-poisoned adults; (4) provide information on adult lead poisoning and its prevention and management to the public, health professionals, and policy and decision makers; (5) encourage and support community-based programs directed to the goal of eliminating adult lead poisoning; and (6) build capacity for conducting surveillance of elevated blood lead (BLL's) levels in adults.

Cooperative Agreement funds for surveillance are to be used to develop and implement complete surveillance systems for blood lead levels in adults to ensure appropriate targeting for high-risk industries and occupations and track progress in the elimination of adult lead poisoning. Intervention funds are to be used to develop effective models for intervention in the prevention of adult lead poisoning.

Surveillance Programs

This cooperative agreement program is intended to assist State health departments or other appropriate agencies to implement a complete blood lead surveillance activity. For the purpose of these programs a complete blood lead surveillance activity is defined as a process which: (1) Systematically collects information over time about adults (primarily workers) with elevated BLL's using laboratory reports as the data source; (2) collects follow-up information on industry and occupation of individuals identified on laboratory reports; (3) provides for the follow-up of cases, including field investigations when necessary; and (4) provides timely and useful analysis and reporting of the accumulated data.

Intervention Projects

The purpose of these awards is to assist State health departments or other appropriate agencies to develop effective models for intervention in the prevention of occupational lead poisoning. In particular, the focus should be on lead-using industries and occupations covered under the Occupational Safety and Health Administration (OSHA) Lead Standard for General Industry (29 CFR 1025.1910) or the Construction Standard (29 CFR part 1926) to determine methods for effective interventions to control lead exposures and reduce blood lead levels. An effective intervention strategy developed by the program will serve as a model for other programs nationally.

Goals

Surveillance Programs

The *surveillance* component of this announcement is intended to assist State health departments or other appropriate agencies to implement a complete surveillance activity for BLL's in adults. Development of surveillance systems at the local, State and national levels is essential for targeting interventions to high-risk industries and occupations and for tracking progress in eliminating adult poisoning.

The goals of the ABLES program are to:

1. Increase the number of State health departments with surveillance systems for elevated BLL's;
2. Build the capacity of State- or territorial-based BLL surveillance systems;
3. Use data from these systems to conduct national surveillance of elevated BLL's;
4. Disseminate data on the occurrence of elevated BLL's to government agencies, researchers, employers, and medical care providers;
5. Direct intervention efforts to reduce occupational and environmental lead exposure;
6. Characterize reports by industry and occupation to assist with targeting educational outreach efforts and prevention activities.

Intervention Project(s)

Intervention funds are to be used for developing effective models for intervention in the prevention of adult lead poisoning. The goals are to:

1. Develop a model for intervention related to lead poisoning targeting high-risk industries or occupational businesses;
2. Build occupational disease prevention capacity via State health departments or other appropriate agencies at the State, or local level;
3. Design, field test, demonstrate, and evaluate the effectiveness of the intervention.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for conducting activities under A. (Recipient Activities), and CDC/NIOSH will be responsible for the activities listed under B. (CDC/NIOSH Activities).

The following requirements are for surveillance only cooperative agreement projects:

A. *Recipient Resources and Activities*

1. Develop effective, well-defined, working relationships with childhood lead poisoning prevention programs within the applicants' State.
2. Refine and implement, in collaboration with CDC/NIOSH, the methodology for surveillance as proposed in the respective program application.
3. Provide collaborative partnerships with CDC/NIOSH in any interim and/or final evaluation of the surveillance activity.
4. Monitor and evaluate all major program activities and services.
5. Demonstrate experience or access to professionals knowledgeable in conducting and evaluating public health programs.
6. Develop ability to translate program findings to State and local public health officials, policy- and decision-makers, and to others seeking to strengthen program efforts.

B. *CDC/NIOSH Activities*

1. Provide technical assistance and consultation in the implementation of the surveillance activities throughout the project period.
2. Provide a format for reporting surveillance data to CDC/NIOSH.
3. Analyze and provide summary surveillance data for national reporting.
4. Provide timely feedback to the recipient from the review of quarterly

reports on the program activities conducted by the recipient.
5. Provide assistance in the conduct of field investigations at the recipient's request and as resources permit.

The following requirements are for Adult Lead Poisoning Intervention only projects:

A. *Recipient Activities*

1. Hire or establish a full-time director/coordinator with authority and responsibility to carry out the requirements of intervention project activities.
2. Collaborate with CDC/NIOSH to refine the methodology for the proposed intervention as described in the program application.
3. Develop and document all facets of the intervention program.
4. Develop plan for evaluating intervention process and outcomes.
5. Evaluate the model program using CDC Prevention Effectiveness Criteria.

B. *NIOSH/CDC Activities*

1. Provide technical assistance and consultation in the implementation of the model program throughout the project period.
2. Provide assistance in the conduct of field investigations and intervention efforts, at the recipient's request.
3. Provide guidelines for evaluating the intervention activities and technical assistance for the evaluation.

Note: Applicants may submit proposals for surveillance programs and/or intervention project(s).

Evaluation Criteria

The review of applications will be conducted by an objective review committee who will review the quality of the application based on the strength and completeness of the plan submitted. The budget justification will be used to assess how well the technical plan is likely to be carried out using available resources. The maximum ratings score of an application is 100 points.

A: The Factors To Be Considered in the Evaluation of Applications for Surveillance Program Funds Only Are

1. *Surveillance Activity* (35%)

The clarity, feasibility, and scientific soundness of the surveillance approach. Also, the extent to which a proposed schedule for accomplishing each activity and methods for evaluating each activity are clearly defined and appropriate.

The following points will be specifically evaluated:

a. How laboratories report PbB levels.
b. How data will be collected and managed.
c. How data quality and completeness of reporting will be assured.
d. How and when data will be analyzed.
e. How summary data will be reported and disseminated.
f. Protocols for follow-up of individuals with elevated PbB levels.
g. Provisions to obtain industry and occupation data.

2. *Progress Toward Complete Blood-Lead Surveillance* (30%)

The extent to which the proposed activities are likely to result in substantial progress toward establishing a complete State-based PbB surveillance activity (as defined in the **PURPOSE** Section).

3. *Project Sustainability* (20%)

The extent to which the proposed activities are likely to result in the long-term maintenance of a complete State-based PbB surveillance system. In particular, specific activities that will be undertaken by the State during the project period to ensure that the surveillance program continues after completion of the project period.

4. *Personnel* (10%)

The extent to which the qualifications and time commitments of project personnel are clearly documented and appropriate for implementing the proposal. (Project requires full-time director/coordinator with authority and responsibility to carry out the requirements of surveillance program activities. Position must be approved by the applicant's personnel system.)

5. *Use of Existing Resources* (5%)

The extent to which the proposal would make effective use of existing resources and expertise within the applicant agency or through collaboration with other agencies.

6. *BUDGET* (Not Scored)

The extent to which the budget is reasonable, clearly justified, and consistent with the intended use of funds.

B: The Factors To Be Considered in the Evaluation of Applications for Intervention Project Funds Only Are

1. The clarity, feasibility, and scientific soundness of the approach. The following will be specifically considered: (30%)

a. Who will be targeted for the intervention?
b. How will the intervention be conducted and by whom?
c. How will the intervention be evaluated?
d. How will the data be analyzed?

2. The extent to which the proposed activities are likely to result in the development and execution of a model intervention strategy to prevent and reduce occupational lead poisoning in high-risk industries or occupations. (25%)

3. The extent to which the proposed schedule for accomplishing each of the project activities and the methods for evaluating each activity are clearly defined and appropriate. (15%)

4. The extent to which the proposed activities are feasible and a plan for documenting all facets of the intervention is provided such that the model program may be adopted by other health departments or appropriate agencies or organizations. (15%)

5. The extent to which the qualifications and time commitments of project personnel are clearly documented and appropriate for implementing the proposal. (10%)

6. The extent to which the proposal would make effective use of existing resources and expertise within the applicant agency or through collaboration with other agencies. (5%)

7. The extent to which the budget is reasonable, clearly justified and consistent with the intended use of funds. (not scored)

Funding Priorities

Applicants applying for ABLES surveillance funds will be considered in two categories:

Priorities

(A) Approximately $81,000 to fund up to three new cooperative agreements (new is defined as ABLES programs not currently supported by CDC/NIOSH) who meet the eligibility requirements.

(B) Approximately $278,500 will be available to fund up to thirteen cooperative agreements for those States currently receiving CDC/NIOSH ABLES funding or for those States which provide quarterly data to the national surveillance program but are not supported monetarily by CDC/NIOSH. High priority will be given to proposals which devise strategies for enhancing their current surveillance system by coding industry and occupation and developing augmentation efforts such as calculation of State-specific rates.

(C) Approximately $180,000 will be available to fund up to two cooperative agreements for intervention projects targeting high-risk industries and occupations (high-risk defined as the potential for highest lead exposures based on investigations of worksites or targeting worker populations where cases of elevated blood lead levels persist.) Eligible applicants may also

apply for intervention project funds in addition to surveillance funds and should develop separate proposals, within the same request for assistance, for intervention projects.

Interested persons are invited to comment on the proposed funding priority. Comments received within 30 days after publication in the **Federal Register** will be considered before the final funding priority is established. If the funding priority should change as a result of any comments received, a revised announcement will be published in the **Federal Register**, and revised applications will be accepted prior to final selection of awards.

Written comments should be addressed to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. Indian tribes are strongly encouraged to request tribal government review of the proposed application. A current list of SPOCs is included in the application kit.

If the SPOCs or tribal governments have any State process or tribal process recommendations on applications submitted to CDC, they should send them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, GA 30305, no later than 60 days after the application due date. The granting agency does not guarantee to ''accommodate or explain'' State or tribal process recommendations it receives after that date.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.197.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by this cooperative agreement will be subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

Application Submission and Deadline

The original and two copies of the PHS 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305 on or before July 14, 1995.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or

(b) Sent on or before the deadline date and received in time for submission for the review process. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. Late Applications: Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement 553. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E–13, Atlanta, GA 30305, telephone (404) 842–6796 .

Technical assistance on surveillance programs and/or intervention projects may be obtained from Robert Roscoe, M.S., Epidemiologist, ABLES Project Officer, or Shiro Tanaka, M.D., Division of Surveillance, Hazard Evaluations and Field Studies, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 4676 Columbia Parkway, Mailstop R–21, Cincinnati, OH 45226, telephone (513) 841–4353.

Please refer to Announcement Number 553 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: May 15, 1995.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–12545 Filed 5–22–95; 8:45 am]

BILLING CODE 4163–19–P

Food and Drug Administration

[Docket Nos. 91P–0186 and 93P–0306]

Proposed Warning Labels for Iron-Containing Products; FDA Report on Consumer Research; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a report entitled ''Consumer Research on Proposed Warning Labels for Iron-Containing Products,'' which describes the results of research conducted by the agency to evaluate consumer understanding of the proposed warning labels for iron-containing products. FDA is inviting comments on the findings in this report.

DATES: Written comments by July 24, 1995.

ADDRESSES: Submit written comments and requests for single copies of ''Consumer Research on Proposed Warning Labels for Iron-Containing Products'' to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857. Comments and requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist that office in processing your requests. After the comment period shown above, copies of the document will be available at cost from the Freedom of Information Staff (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857. ''Consumer Research on Proposed Warning Labels for Iron-Containing Products'' and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Raymond E. Schucker, Center for Food Safety and Applied Nutrition (HFS–725), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5657.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 6, 1994 (59 FR 51030), FDA issued a proposal (''the initial proposal'') on actions that it tentatively concluded were necessary to stop the recent epidemic of pediatric poisonings from over consumption of iron-containing products. In the **Federal Register** of February 16, 1995 (60 FR 8989), the agency issued a supplementary proposal to clarify changes in its legal authority with the passage of the Dietary Supplement Health and Education Act (Pub. L. 103–417).

In the initial proposal, FDA announced that it may conduct focus group research to evaluate consumer understanding of the proposed warning messages and to ensure that the messages are not misleading. FDA has conducted this research. Consumers provided feedback as to their understanding of the proposed warnings and the degree to which the specific wording of the messages was believable, relevant, confusing, or irritating. Additional warning messages were created as a result of public comment on the proposed rule, and these messages were also evaluated in the focus groups.

FDA stated in the initial proposal that it would make a report of the results of this research available for public comment before it issued the final regulations. The research report is now available for public comment.

Dated: May 18, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–12605 Filed 5–22–95; 8:45 am]

BILLING CODE 4160–01–F

Public Health Service

Announcement of Availability of Funds for Family Planning Service Grants

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Office of Population Affairs announces the availability of funds for FY 1996 family planning services grant projects under the authority of Title X of the Public Health Service Act (42 U.S.C. 300, *et seq.*) and solicits applications for competing grant awards to serve the areas and/or populations set out below. Only applications which propose to serve the populations and/or areas set out below will be accepted for review and possible funding.

OMB Catalog of Federal Domestic Assistance 93.217.

DATES: Application due dates vary. See Supplementary Information below.

ADDRESSES: Additional information may be obtained from and completed applications should be sent to the appropriate Regional Health Administrator at the address below:

Region I—(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont): DHHS/PHS Region I, John F. Kennedy Federal Building, Government Center, Room 1400, Boston, MA 02203

Region II—(New Jersey, New York, Puerto Rico, Virgin Islands): DHHS/PHS Region II, 26 Federal Plaza, Room 3337, New York, NY 10278

Region III—(Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, W. Virginia DHHS/PHS Region III, 3535 Market Street, Philadelphia, PA 19101

Region IV—(Alabama, Florida, Georgia, Kentucky, Mississippi, N. Carolina, S. Carolina, Tennessee): DHHS/PHS Region IV, 101 Marietta Tower, Suite 1106, Atlanta, GA 30323

Region V—(Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin): DHHS/PHS Region V, 105 West Adams Street, 17th Floor, Chicago, IL 60603

Region VI—(Arkansas, Louisiana, New Mexico, Oklahoma, Texas): DHHS/PHS Region VI 1200 Main Tower Building, Room 1800, Dallas, TX 75202

Region VII—(Iowa, Kansas, Missouri, Nebraska): DHHS/PHS Region VII, 601 East 12th Street, 5th Fl. W., Kansas City, MO 64106

Region VIII—(Colorado, Montana, N. Dakota, S. Dakota, Utah, Wyoming): DHHS/PHS Region VIII, 1961 Stout Street, Denver, CO 80294

Region IX—(Arizona, California, Hawaii, Nevada, Commonwealth of the Northern Mariana Islands, American Samoa, Guam, Republic of Palau, Federated States of Micronesia, Republic of the Marshall Islands): DHHS/PHS Region IX, 50 United Nations Plaza, Room 327, San Francisco, CA 94102

Region X—(Alaska, Idaho, Oregon, Washington): DHHS/PHS Region X, Blanchard Plaza, 2201 Sixth Avenue, M/S RX–20, Seattle, WA 98121.

FOR FURTHER INFORMATION CONTACT: Regional Grants Management Officers: Region I, Mary O'Brien—617/565–1482; Region II, Steven Wong—212/264–4496; Region III, Marty Bree—215/596–6653; Region IV, Wayne Cutchins—404/331–2597; Region V, Lawrence Poole—312/353–8700; Region VI, Joyce Bailey—214/767–3879; Region VII, Michael Rowland—816/426–2924; Region VIII, Susan A. Jaworowski—303/844–4461; Region IX, Ken Souza—415/556–8187; Region X, Jim Tipton—206/615/2473.

Regional Program Consultants for Family Planning: Region I, James Sliker—617/565–1452; Region II, Margaret Lee—212/264–2571; Region III, Elizabeth Reed—215/596–6686; Region IV, Christino Rodrigues—404/331–5254; Region V, George Hockenberry—312/535–1700; Region VI, Paul Smith—214/767–3072; Region

VII, Susan Moskosky—816/426–2924; Region VIII, John J. McCarthy, Jr.—303/844–5955; Region IX, James Hauser—415/556–7117; Region X, Karen Matsuda—206/615–2501.

SUPPLEMENTARY INFORMATION: Title X of the Public Health Service Act, 42 U.S.C. 300, *et seq.*, authorizes the Secretary of Health and Human Services (HHS) to award grants to public or private nonprofit entities to assist in the establishment and operation of voluntary family planning projects to provide a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents). The statute requires that, to the extent practicable, entities shall encourage family participation. Also, Title X funds may not be used in programs where abortion is a method of family planning. Implementing regulations appear at 42 CFR Part 59 Subpart A.

On February 5, 1993, HHS published at 58 FR 7462 an interim rule that suspends the 1988 Title X rules, pending the promulgation of new regulations. The principal effect of this action was to suspend the definitions of ''family planning,'' ''grantees,'' ''prenatal care,'' ''Title X,'' ''Title X Program,'' and ''Title X Project'' presently found at 42 CFR 59.2 and 42 CFR 59.7–59.10. Proposed rules were also published at 58 FR 7464 on the same date. During the pendency of rulemaking, the compliance standards that were in effect prior to the issuance of the 1988 rule, including those set out in the 1981 Family Planning Guidelines, are being used to administer the program. Copies of the pre-1988 compliance standards are available from the Regional Program Consultants listed above.

The Title X program has established these five priorities:

(1) Increasing outreach to women not likely to seek services, including homeless persons, disabled persons, substance abusers and adolescents;

(2) Expanding the comprehensiveness of reproductive health services, including STD and cancer screening and prevention, increased involvement of male partners, HIV prevention, education and counseling, and substance abuse screening and referral;

(3) Serving adolescents, including more community education, emphasis on postponement of sexual activity, and more accessible provision of contraceptive counseling and contraception;

(4) Eliminating disincentives to provide high-cost but highly effective contraceptives such as Norplant and Depo-Provera, serving high risk (and high-unit cost) clients, and providing nonrevenue-generating services such as community education and prevention services; and

(5) Emphasizing training and retention of family planning nurse practitioners, particularly minority nurse practitioners and nurse practitioners serving disadvantaged and medically underserved communities.

These program priorities represent overriding goals which are being pursued to the extent that funding increases or increases in program efficiency allow. Some funding may be available to Title X grantees to improve and expand services.

The Administration's FY 1996 budget request for this program is $198.9 million. This amount represents a three percent increase over the FY 1995 appropriation of $193.3 million, of which $179.6 million will be made available to Title X service grantees. Approximately 17 percent of the funds appropriated for FY 1996 and made available to Title X service grantees will be used for competing grants. The remaining funds will be used for non-competing continuation grants. This program announcement is subject to the appropriation of funds and is a contingency action being taken to ensure that, should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for the distribution of funds throughout the fiscal year. Since the precise funding levels for FY 1996 are uncertain at this point, the funding levels set out below are based on the FY 1994 appropriation level. However, it is expected that funding levels will be increased, if the appropriation for FY 1996 increases.

For FY 1995, the entire $179.6 million will be allocated among the 10 DHHS regions, and will in turn be awarded to public and private non-profit agencies located within the regions. Each regional office is responsible for evaluating applications, establishing priorities, and setting funding levels according to criteria in 42 CFR 59.11.

This notice announces the availability of funds to provide family planning services in 16 States, the Navajo Reservation, and the Commonwealth of the Northern Mariana Islands. Competing grant applications are invited for the following areas:

Populations or areas to be served	Number of grants to be awarded	FY 1994 funding	Application due date	Grant funding date
Region I:				
Connecticut	1	$1,486,000	9/1/95	1/1/96
Boston, MA	1	1,226,000	3/1/96	7/1/96/
Southeastern MA	1	712,000	9/1/95	1/1/96
Western MA	1	662,000	9/1/95	1/1/96
Central MA	1	501,000	9/1/95	1/1/96
Northeastern MA	1	746,000	3/1/96	7/1/96
Maine	1	1,089,000	3/1/96	7/1/96
New Hampshire	1	637,000	3/1/96	7/1/96
Rhode Island	1	415,000	3/1/96	7/1/96
Vermont	1	541,000	9/1/95	1/1/96
Region V:				
St. Paul, MN	1	235,000	9/1/95	1/1/96
Cleveland, OH	1	1,346,000	12/1/95	4/1/96
Region VI:				
Oklahoma	1	2,639,000	8/1/95	12/1/95
Texas	1	9,426,000	12/1/95	4/1/96
Region VII:				
Missouri	1	3,517,000	12/1/95	4/1/96
Nebraska	1	1,168,000	3/1/96	7/1/96

Populations or areas to be served	Number of grants to be awarded	FY 1994 funding	Application due date	Grant funding date
Region VIII:				
North Dakota	1	470,000	3/1/96	7/1/96
Utah	1	140,000	3/1/96	7/1/96
Region IX:				
Navajo Reservation-AZ	1	511,000	3/1/96	7/1/96
Hawaii	1	874,000	3/1/96	7/1/96
Clark County, NV	1	584,000	9/1/95	1/1/96
Commonwealth of the Northern Marianas Islands	1	67,000	9/1/95	1/1/96
Total	22	28,992,000	.....	.....

Applications must be postmarked or, it not sent by U.S. mail, received at the appropriate Grants Management Office no later than close of business on application due dates listed above. Private metered postmarks will not be acceptable as proof of timely mailing. Applications which are postmarked or, if not sent by U.S. mail, delivered to the appropriate Grants Management Office later than the application due date will be judged late and will not be accepted for review. (Applicants should request a legibly dated postmark from the U.S. Postal Service.) Applications which do not conform to the requirements of this program announcement or do not meet the applicable regulatory requirements at 42 CFR part 59, subpart A will not be accepted for review. Applicants will be so notified, and the applications will be returned.

Applications will be evaluated on the following criteria:

(1) The number of patients and, in particular, the number of low-income patients to be served;
(2) The extent to which family planning services are needed locally;
(3) The relative need of the applicant;
(4) The capacity of the applicant to make rapid and effective use of the Federal assistance;
(5) The adequacy of the applicant's facilities and staff;
(6) The relative availability of non-Federal resources within the community to be served and the degree to which those resources are committed to the project; and
(7) The degree to which the project plan adequately provides for the requirements set forth in the Title X regulations

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS—led national activity for setting priority areas. This announcement is related to the priority areas of Family Planning. A midcourse review of the objectives is presently ongoing, and the proposed revisions are contained in a draft report. A notice of Availability and Request for Comment on the Healthy People 2000 Midcourse Revisions was published in the **Fedeal Register** on October 3, 1994 (59 FR 50253). Requests for copies of the Draft for Public Review and Comment: Healthy People 2000 Midcourse Revisions can be faxed to (301) 594–5981 or mailed to: OFP/OPA, East-West Towers, Suite 200, 5600 Fishers Lane, Rockville, MD 20857. A new PHS report, Healthy People 2000 Midcourse Review and Revisions, featuring the final revisions and status report on progress in achieving targets for the year 2000, will be published in 1995.

The Public Health Service strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Application Requirements

Application kits (including the application form, PHS 5161—approved by OMB under control number 0937–0189) and technical assistance for preparing proposals are available from the regional offices. An application must contain: (1) A narrative description of the project and the manner in which the applicant intends to conduct it in order to carry out the regulations of the law and regulations; (2) a budget that includes an estimate of project income and costs, with justification for the amount of grant funds requested; (3) a description of the standards and qualifications that will be required for all personnel and facilities to be used by the project; and (4) such other pertinent information as may be required by the Secretary as specified in the application kit. In preparing an application, applications should respond to all applicable regulatory requirements.

Application Review and Evaluation

Each regional office is responsible for establishing its own review process. Applications must be submitted to the appropriate regional office at the address listed above. Staff are available to answer questions and provide limited technical assistance in the preparation of grant applications.

Grant Awards

Grant projects are generally approved for 3 to 5 years with an annual non-competitive review of a continuation application to obtain continued support. Non-competing continuation awards are subject to factors such as the project making satisfactory progress and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the Federal Government.

Review Under Executive Order 12372

Applicants under this announcement are subject to the review requirements of Executive Order 12372, State Review of applications for Federal Financial Assistance, as implemented by 45 CFR part 100. As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for each State to be served. The application kit contains the currently available listing of the SPOCs which have elected to be informed of the submission of applications. For those States not represented on the listing, further inquiries should be made by the applicant regarding the submission to the Grants Management Office of the appropriate region. State Single Point of Contact comments must be received by the regional office 30 days prior to the funding date to be considered.

When final funding decisions have been made, each applicant will be notified by letter of the outcome of its application. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award,

which specifies to the grantee the amount of money awarded, the purposes of the grant, and terms and conditions of the grant award.

Dated: May 17, 1995.

Felicia H. Stewart,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 95–12556 Filed 5–22–95; 8:45 am]

BILLING CODE 4160–17–M

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Proposed Criteria for Reviewing and Making Recommendations on Federal Mandates

ACTION: Notice of proposed criteria.

SUMMARY: The Advisory Commission on Intergovernmental Relations (ACIR) is soliciting public comments on its proposed criteria for investigating and reviewing existing federal mandates and formulating recommendations to modify, suspend, or terminate specific mandates on State, local, or Tribal governments.

DATES: Comments must be received by June 22, 1995.

ADDRESSES: Comments should be sent to Philip M. Dearborn, Director, Government Finance Research, ACIR, 800 K Street NW., Suite 450 South, Washington, DC 20575.

FOR FURTHER INFORMATION CONTACT: Philip Dearborn at 202/653–5538.

SUPPLEMENTARY INFORMATION: The Advisory Commission on Intergovernmental Relations (ACIR, 42 U.S.C. 4271) is charged in Sec. 302 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 67) with investigating and reviewing the role of Federal mandates in intergovernmental relations and formulating recommendations to modify, suspend, or terminate specific mandates on State, local, or Tribal governments.

Section 302 defines ''Federal mandate'' very broadly for the purposes of the ACIR review as ''any provision in statute or regulation or any Federal court ruling that imposes an enforceable duty on State, local, or Tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.''

ACIR will select for in-depth review those Federal mandates generally recognized as creating significant concerns within the intergovernmental system. In accordance with Public Law 104–4, ACIR will give review priority to mandates that are subject to judicial proceedings in Federal courts. To formulate its recommendations, ACIR will evaluate each mandate to determine the specific conditions causing concern.

The Commission will make the final decisions about which mandates it will review based on two types of criteria:

(1) Those that provide a basis for identifying mandates of significant concern; and

(2) Those that provide a basis for formulating recommendations to modify, suspend, or terminate specific mandates that are of concern.

Criteria for Identifying Mandates of Significant Concern

In general, Federal mandates will be selected for intensive review if they have one or more of the following characteristics:

1. The mandate requires State, local, or Tribal governments to expend substantial amounts to their own resources in a manner that significantly distorts their spending priorities. This addresses mandates that require more than incidental amounts of spending. It will not include all Federal mandates that require governments to spend money.

2. The mandate establishes terms or conditions for Federal assistance in a program or activity in which State, local, or Tribal governments have little discretion over whether or not to participate. This will include mandates in entitlements and discretionary programs. It will exclude conditions of grants in small categorical programs that are distributed on the basis of annual or periodic applications and that are received only by a limited number of governments.

3. The mandates abridges historic powers of State, local, or Tribal governments, the exercise of which would not adversely affect other jurisdictions. This will include mandates that have an impact on internal State, local, and Tribal government affairs related to issues not widely acknowledged as being of national concern and for which the absence of the mandate would not create adverse spillover effects.

4. The mandate imposes compliance requirements that make it difficult or impossible for State, local, and Tribal governments to implement. Implementation delays, issuance of court orders, or assessment of fines may be indicative of mandate requirements that go beyond State, local, or Tribal fiscal resources, or administrative or technological capacity, after reasonable efforts at compliance have been made.

5. The mandate has been the subject of widespread objections and complaints by State and local governments and their representatives. This will include mandates that are based on problems of national scope, but are not federally funded.

Criteria for Formulating Recommendations

ACIR will investigate the specific characteristics of each mandate causing significant concern in order to formulate a recommendation to modify, suspend, or terminate the mandate. For purposes of formulating such recommendations, ACIR will focus on specific provisions in laws, regulations, or court orders.

When a mandate affects a State or local program that directly competes with a comparable private sector activity, ACIR will consider the effects on both the government and private sector in making its recommendation. ACIR also will consider (1) impacts of mandates on working men and women and (2) mandates for utilization of metric systems.

ACIR will investigate each mandate selected for intensive review to determine whether or not they have one or more of the following characteristics:

1. Federal Intrusion

- Requirements are not based on demonstrated national needs.
- Requirements are related to issues not widely recognized as national concerns or as being within the appropriate scope of Federal activities.
- Requirements are based on problems of national scope, but which State, local, or Tribal governments have been able or willing to solve effectively, either independently or through voluntary cooperation.
- Requirements are based on problems of national scope, but are not federally funded.

These mandates should be terminated or modified to express non-binding national guidelines. In some instances, the basis provision could be retained in Federal law, but compliance could be made voluntary.

2. Unnecessarily Rigid

- Provisions do not permit adjustments to the circumstances or needs of individual jurisdictions.
- Provisions restrict flexibility to use less costly or less onerous alternative procedures to achieve the goal of the mandate.
- Provisions do not allow governments to set implementation or compliance priorities and schedules, taking into account risk analysis, greatest benefit, or other factors.

These mandates should be modified to provide options, waivers, or exemptions, or be terminated.

3. Unnecessarily Complex

• Requirements are unnecessarily detailed and difficult to understand.
• Provisions are too process specific rather than results oriented.

These mandates should be simplified, clarified, or otherwise revised to facilitate understanding and implementation, or be terminated.

4. Unclear Goals or Standards

• Goals or standards are too vague, confusing, or poorly written to permit clear or consistent implementation of requirements or measurement of results.

These goals or standards should be rewritten or the mandate should be terminated.

5. Contradictory or Inconsistent

• Provisions in one mandate may make it difficult or impossible to comply with other provisions in the same or other Federal, State, local, or Tribal laws.
• Requirements use conflicting and confusing definitions and standards.

These mandates should be modified to bring conflicting requirements into conformance. In some instances, it may be appropriate to terminate one or all of the requirements. Where possible, common definitions and standards should be used, especially in planning and reporting requirements.

6. Duplicative

• Provisions in two or more Federal mandates may have the same general goals but require different actions for compliance.

These mandates could be terminated, consolidated, to modified or facilitate compliance.

7. Obsolete

• Provisions were enacted when conditions or needs were different or before existing technologies were available.
• Provisions have been superseded by later requirements.

These mandates should be modified to reflect current conditions or existing technology. If a mandate is no longer necessary or has been superseded, it should be terminated.

8. Inadequate Scientific Basis

• Provisions were enacted based on inadequate or inconclusive scientific research or knowledge.
• Provisions are not based on current, peer-reviewed scientific research.
• Provisions are not justified by risk assessment or cost-benefit.

These mandates should be terminated or modified to reflect current science. In some cases, suspension of the mandate may be appropriate to provide time for additional research.

9. Lacking in Practical Value

• Requirements do not achieve the intended results.

• Requirements are perceived by citizens as unnecessary, insignificant, or ineffective, thereby producing credibility problems for governments.

• Requirements have high costs relative to the importance of the issue.

These mandates should be evaluated to determine whether or not they are effective. If they cannot be shown to be effective and worthy of public support, they should be terminated. If they are effective, it still may be appropriate to suspend the mandates to allow time for public education and consensus building on their value.

10. Resource Demands Exceed Capacity

• Requirements for compliance exceed State, local, and Tribal governments' fiscal, administrative, and/or technological capacity.

These mandates should be terminated or modified to reduce compliance problems, or assistance could be provided to upgrade capacity. In some instances, compliance schedule extensions or exemptions may be appropriate.

11. Compounds Fiscal Difficulties

• Compliance with the requirements of any one mandate or with multiple mandates compounds fiscal difficulties of governmental jurisdictions that are experiencing fiscal stress.

In these situations, certain of the mandates affecting the jurisdictions—exclusive of those that are vital to public health or safety—should be considered for partial or total suspension until the government experiencing fiscal stress is able to comply. The conditions triggering consideration of such suspensions should include:

a. Governments faced with costs dramatically out of line with their revenue bases, as determined by comparisons with other similar governments that are complying; or

b. Governments that are experiencing severe fiscal distress for reasons not immediately within their control. There should be some definitive evidence of severe problems, such as State receivership, State declaration of distress, Chapter 9 bankruptcy, or a debt rating below investment grade. This should not include annual budget balancing problems.

Dated: May 18, 1995.

William E. Davis III,

Executive Director.

[FR Doc. 95–12591 Filed 5–22–95; 8:45 am]

BILLING CODE 5500–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; AA–10968]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h), will be issued to Chugach Alaska Corporation for 0.10 acre. The land involved is in the vicinity of Long Bay, Alaska.

U.S. Survey No. 6935, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until June 22, 1995 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Margaret J. McDaniel,

Acting Chief, Branch of Gulf Rim Adjudication.

[FR Doc. 95–12558 Filed 5–22–95; 8:45 am]

BILLING CODE 4310–JA–P

National Park Service

Environmental Assessment for Proposed M.J. Murdock Aviation Center and Proposed Master Plan Amendment for Fort Vancouver National Historic Site, Washington

ACTION: Notice of availability of environmental assessment.

SUMMARY: This Notice announces the availability of an Environmental Assessment (EA) for the proposed M.J. Murdock Aviation Center; the site plan constitutes a proposed amendment of the Master Plan for Fort Vancouver National Historic Site. This Notice also announces a public meeting for the purpose of receiving public comment on the EA.

DATES: Written comments on the EA should be received no later than June 22, 1995. The date of the public meeting is 7 June (Wednesday) 1995.

ADDRESSES: Copies of the EA are available on request from the Superintendent, Fort Vancouver National Historic Site, 612 East Reserve Street, Vancouver, WA 98661–3811; telephone (360) 696–7655, ext. 2. Written comments should be submitted to the above address.

The public meeting will be held at the Clark Public Utilities District (PUD) Building, 1200 Fort Vancouver Way, Vancouver, Washington, from 7:00–9:00 p.m. on Wednesday, 7 June 1995.

SUPPLEMENTARY INFORMATION: The proposed amendment of the Master Plan would provide for the adaptive reuse of three historic aviation structures and the reconstruction of a hanger as the principal components of the proposed M.J. Murdock Aviation Center, an aviation museum to be located adjacent to Pearson Field. The proposed museum development would implement a provision of a 1994 Memorandum of Agreement between the National Park Service and the City of Vancouver. The proposed Center would be located within Fort Vancouver National Historic Site. The City of Vancouver would have the responsibility for the aviation museum's development, operation and maintenance.

Dated: May 11, 1995.

William C. Walters,

Acting Regional Director, Pacific Northwest Region, National Park Service.

[FR Doc. 95–12592 Filed 5–22–95; 8:45 am]

BILLING CODE 4310–70–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 13, 1995. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by June 7, 1995.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Crawford County
Slack—Comstock—Marshall Farm, N of AR 220 W, Uniontown, 95000694
Izard County
Caney Springs Cumberland Presbyterian Church, NW of jct. of AR 289 and Co. Rd. 70, Sage vicinity, 95000693
Prairie County
American Legion Hut—Des Arc, 206 Erwin St., Des Arc, 95000692

GEORGIA

Brantley County
Brantley County Courthouse (Georgia County Courthouses TR), 117 Brantley St., Nahunta, 95000712
Bryan County
Bryan County Courthouse (Georgia County Courthouses TR), College St., Pembroke, 95000713
Cook County
Cook County Courthouse (Georgia County Courthouses TR), 212 N. Hutchinson Ave., Adel, 95000714
Emanuel County
Emanuel County Courthouse and Sheriff Department (Georgia County Courthouses TR), Main St., Swainsboro, 95000715
Fannin County
Fannin County Courthouse (Georgia County Courthouses TR), Jct. of W. Main and Summit Sts., Blue Ridge, 95000716
Hall County
Hall County Courthouse (Georgia County Courthouses TR), Jct. of Spring and Green Sts., Gainesville, 95000717
Quitman County
Quitman County Courthouse and Old Jail (Georgia County Courthouses TR), Main St., Georgetown, 95000718
Taylor County
Taylor County Courthouse (Georgia County Courthouses TR), Main St., Butler, 95000719
Telfair County
Telfair County Courthouse and Jail (Georgia County Courthouses TR), Courthouse Sq., McRae, 95000720
Troup County
Troup County Courthouse, Annex, and Jail (Georgia County Courthouses TR), E. Haralson St., LaGrange, 95000721

INDIANA

Clark County
Bottorff—McCulloch Farm, 6702 Bethany Rd., Charlestown vicinity, 95000699
Decatur County
Greensburg Carnegie Public Library, 114 N. Michigan Ave., Greensburg, 95000701
Hamilton County
Holliday Hydroelectric Powerhouse and Dam, Riverwood Ave. at jct. with 211th St., across the White R., Noblesville vicinity, 95000706
Jackson County
Seymour Commercial Historic District, Roughly bounded by Walnut, Third, Ewing and Bruce Sts., Seymour, 95000708
Lake County
Emerson, Ralph Waldo, School, 716 E. 7th Ave., Gary, 95000702
Lawrence County
Bedford Courthouse Square Historic District, Roughly bounded by L, 14th, 17th and H Sts., Bedford, 95000704
Helton—Mayo Farm, Jct. of Boyd Ln. and IN 58, Bedford vicinity, 95000709
Marion County
Bush Stadium, 1501 W. 16th St., Indianapolis, 95000703
P. C. C. & St. L. Railroad Freight Depot, 449 S. Pennsylvania St., Indianapolis, 95000697
Monroe County
Stinesville Commercial Historic District, 8201, 8211, 8223, 8231 and 8237 W. Main St., Stinesville, 95000707
Vigo County
Terre Haute Masonic Temple, 224 N. Eighth St., Terre Haute, 95000705
Wayne County
Witt—Champe—Myers House, Jct. of Spring and Foundry Sts., SE corner, Dublin, 95000700

IOWA

Fayette County
Bigler Building, 210 Mill St., Clermont, 95000691

KANSAS

Pratt County
Rice, J. R., Barn and Granary, N of US 54, NW of Cullison, Cullison vicinity, 95000695

MASSACHUSETTS

Norfolk County
Milton Hill Historic District, Roughly bounded by Adams and School Sts., Randolph and Canton Aves. and Brook Rd., Milton, 95000698

MISSISSIPPI

Hinds County
Poindexter Park Historic District, Roughly bounded by W. Pearl St., Rose St., Hunt St., W. Capitol St. and Clifton St., Jackson, 95000685

NORTH CAROLINA

Chatham County
Deep River Camelback Truss Bridge, Adjacent to NC 2153 over Deep R., Cumnock-Gulf vicinity, 95000696

OREGON

Jackson County
Ashland Cemetery (Historic Cemeteries of Ashland MPS), Jct. of E. Main and Morton Sts., Ashland, 95000687
Mountain View Cemetery (Historic Cemeteries of Ashland MPS), Jct. of Normal Ave. and OR 66, Ashland, 95000688
Linn County
Elkins Flour Mill, Bounded by US 20, Industrial Way, the Santiam-Albany Canal and the Callaghan RR tracks, Lebanon, 95000689
Multnomah County
Hill Hotel, 2255–2261 Burnside St., Portland, 95000690
Wasco County
Trevitt's Addition Historic District, Roughly bounded by 2nd, Liberty and 6th Sts. and Mill Cr., The Dalles, 95000686

RHODE ISLAND

Providence County
Blackstone Boulevard Realty Plat Historic District, Roughly bounded by Blackstone Blvd., Rochambeau Ave., Holly St. and Elmgrove Ave., Providence, 95000711

In order to assist in the preservation of the following property, the 15-day commenting period is being waived:

MASSACHUSETTS

Middlesex County
Bullard Farm, 7 Bullard Ln., Holliston, 95000710

[FR Doc. 95–12509 Filed 5–22–95; 8:45 am]

BILLING CODE 4310–70–P

Saint Croix National Scenic Riverway, Minnesota and Wisconsin

AGENCY: National Park Service, Interior.

ACTION: Notice—temporary restricted access.

SUMMARY: The National Park Service is establishing a temporary restricted access program for the Federally-administered portion of the Lower Saint Croix National Scenic Riverway for the 1995 boating season. This program is being put in place to prevent the spread of the exotic zebra mussel into the upper section of the riverway. The restrictions are now being implemented and are effective through November 30, 1995. This notice is given pursuant to 36 CFR Sections 1.5, 1.6 and 1.7.

DATES: This action is effective immediately and provides notice of the implementation of restrictions on the Federal portion of the Lower Saint Croix National Scenic Riverway through November 30, 1995.

ADDRESSES: Copies of the 1995 Zebra Mussel Response Plan are available for public review at the following locations.

Superintendent's Office, Saint Croix National Scenic Riverway, 401 Hamilton Street, St. Croix Falls, WI 54024.
St. Croix National Scenic Riverway, Lower River Visitor Center, 117 Main Street, Stillwater, MN 55082.

FOR FURTHER INFORMATION CONTACT: Anthony L. Andersen, Superintendent, Saint Croix National Scenic Riverway, P.O. Box 708, Saint Croix Falls, Wisconsin 54024; telephone 715–483–3284.

SUPPLEMENTARY INFORMATION: The exotic zebra mussel (Dreissena polymorpha) was accidently introduced into the waters of the United States in 1986. The zebra mussel is a small filter-feeding mollusk that attaches itself to hard surfaces. It has been identified as an aquatic nuisance species in the Nonindigenous Aquatic Nuisance Prevention Control Act of 1990, 16 U.S.C. 4701. Since that time, populations have spread from the Great Lakes throughout the major eastern and midwestern river systems, including the Mississippi River as far upstream as Minneapolis, Minnesota. The primary vector in the spread of the zebra mussel is by in-water vessels. Once established in river systems the spread may be downstream by current.

Prevention efforts are directed at minimizing the risk of unintentional introduction and spread of the zebra mussels as a nuisance species. Minimizing such risks is particularly important since once the zebra mussel has become established, it is nearly impossible to eliminate. Research suggests that the biological impact of the zebra mussel may be dramatic due to: (1) Its ability to filter large quantities of water, thus limiting the food available to other species and (2) its demonstrated potential to extirpate native species common of mussels.

At immediate threat on the St. Croix River are a variety of natural and economic resources, values and interests dependent upon the river including the Northern States King Power Plant at Bayport, several marinas, several communities and municipalities and supporting infrastructure and industry, thousands of individual boatowners and riparian landowners, native fauna and flora and the overall water quality of the river itself.

The 1995 Zebra Mussel Response Plan expands upon activities initiated in 1993 and continued in 1994. The change for the 1995 boating season is the implementation of a zebra mussel free certification/pass program for vessels traveling upstream past the Arcola Sandbar, approximately 5 miles upstream of the north city limits of Stillwater, Minnesota.

The components of this program include:

1. ''Passes'': Free daily passes will be issued for vessels traveling downstream from upstream of the Arcola Sandbar. These passes will be issued at the Arcola Ranger Station and will allow the vessel to return upstream of the Arcola Sandbar before 12 midnight on the same day the pass is issued. Any vessel not returning on the same day before 12 midnight must be decontaminated at an approved cleaning station and certified free of zebra mussels before proceeding upstream of the Arcola Sandbar. To receive a pass, boat operators must certify that they will not travel downstream of Kinnickinnic Narrows, approximate mile 6 of the St. Croix River.

2. ''Certification of Decontamination'': Any vessel may travel upstream of the Arcola Sandbar that has been decontaminated at an approved cleaning station and certified free of zebra mussels before proceeding upstream of the Arcola Sandbar. The upstream travel must be done before 1200 midnight on the same day of cleaning and certification.

Vessel cleaning and certification are available at Wolf Marine in Stillwater, MN. At the time of this notice Wolf Marine is the only officially approved cleaning station.

Dated: May 18, 1995.

Bob Marriott,

Acting Chief, Ranger Activities Division.

[FR Doc. 95–12590 Filed 5–22–95; 8:45 am]

BILLING CODE 4310–70–P

Bureau of Reclamation

Yakima River Basin Water Enhancement Project, Yakima, Washington

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a programmatic environmental impact statement.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of

Reclamation (Reclamation) intends to prepare a programmatic environmental impact statement (PEIS) for implementing provisions of the legislation authorizing the Yakima River Basin Water Enhancement Project (Enhancement Project). The purpose of the Enhancement Project is to meet the competing needs of the Yakima River basin through improved water conservation and management, and other appropriate means. This may include reducing water diversions by improving conveyance, distribution, and onfarm irrigation facilities; and changing operations, management, and administration of Yakima River basin water. Conserved water will be used to increase instream flows and provide a more stable irrigation supply. The Enhancement Project legislation also authorizes actions on the Yakima Indian Reservation to benefit the members of the Yakima Indian Nation.

FOR FURTHER INFORMATION CONTACT: Mr. Cline Sweet, Environmental Program Manager, Upper Columbia Area Office, Bureau of Reclamation, PO Box 1749, Yakima, WA 98907–1749; telephone (509) 575–5848.

SUPPLEMENTARY INFORMATION:

Background

Federal involvement in the Yakima River basin began in 1905 with authorization of the first facilities of the Yakima Project. The Yakima Project now consists of seven divisions: A storage division consisting of seven reservoirs and six water service divisions with separate diversion, conveyance, and distribution facilities.

The Yakima River basin is highly dependent upon water from the Yakima River and its tributaries to meet a multitude of economic, environmental, and societal needs. The Yakima Project provides the primary facilities for the regulation and use of basin waters.

Congress first authorized a study of the Enhancement Project in 1979. Phase one of the Enhancement Project was implemented in 1984 when Congress authorized the Secretary of the Interior, through Reclamation, to construct fish passage and protective facilities in the Yakima River basin. The work was performed in partnership with the Bonneville Power Administration, the State of Washington, and others under the auspices of the Fish and Wildlife Program of the Northwest Power Planning Council.

The Columbia River Basin Fish and Wildlife Program adopted by the Northwest Power Planning Council in 1982 identified the Yakima River basin as one of the areas with the greatest potential for the production of salmon and steelhead. With the existing project facilities and operational requirements, maintaining a stable irrigation water supply and instream flows for the maintenance and enhancement of salmon and steelhead in the Yakima River basin is difficult to achieve.

In dry years, the water supply available is allocated among the water users pursuant to entitlements set forth in a Federal District Court Judgment of January 31, 1945 (1945 Consent Decree). The 1945 Consent Decree requires reductions in the water supply available to junior water right holders before any reductions to senior right holders. Additionally, a Federal Court directive on November 28, 1980, requiring Reclamation to make releases from Yakima Project reservoirs to assure adequate instream flows for anadromous fish spawning and rearing further reduces the reliability of irrigation water supplies.

Current Activities

The Enhancement Project legislation established the Yakima River Basin Water Conservation Program which is central to balancing the competing demands on the basin's water supply. This voluntary program will reduce demands on the available water supply by promoting conservation measures to improve:

- The efficiency of water delivery and use.
- Instream flows for fish and wildlife.
- The reliability of the irrigation water supply.

The actual measures that will be adopted depend on the preparation of water conservation plans detailing what can be done. Cost effectiveness will be considered and separate NEPA compliance will be completed when recommending water conservation actions for implementation. The water conservation measures will occur in steps over a period of years providing the opportunity to monitor, evaluate, and adjust subsequent measures.

The legislation also directs the Secretary of the Interior to establish a conservation advisory group, in consultation with the State of Washington, the Yakama Indian Nation, the Yakima River basin irrigators, and other interested parties. A charter for the group has been drafted and nominees are being sought.

The legislation was developed by a consortium of local, tribal, State, and Federal entities involved with water resource activities in the basin and is the result of a consensus building effort to structure an acceptable, comprehensive approach to the basin's water problems. An extensive scoping effort will be conducted by mail along with public scoping sessions which will be scheduled at a later date.

Alternative Measures

The PEIS will serve as an umbrella document to ensure that the interaction and cumulative effects of all activities proposed for implementation under Title XII of the Act of October 31, 1994 (Pub. L. 103–434), which authorized the Enhancement Project, are addressed. The provisions and measures for the legislation will set the limits on activities to be evaluated in the PEIS.

Two major alternatives are being considered: action, i.e., implementing the legislation, and no action. The action alternative will be an incremental analysis showing impacts at different levels of implementation of project components. Separate NEPA analyses addressing various alternatives will be conducted for site specific actions not covered in sufficient detail in the PEIS.

Potential Federal Action

Reclamation is seeking funding to implement Public Law 103–434. The draft PEIS is expected to be completed in June of 1996.

Anyone interested in more information concerning the study, or who has information concerning the study or suggestions as to significant environmental issues, should contact Mr. Sweet as provided above.

Dated: April 27, 1995.

John W. Keys, III,

Regional Director, Pacific Northwest Region.

[FR Doc. 95–12559 Filed 5–22–95; 8:45 am]

BILLING CODE 4310–94–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-No. 506X)]

CSX Transportation, Inc.—Abandonment Exemption—in Fannin County, GA

CSX Transportation, Inc. (CSXT), has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 14.23 miles of rail line extending between milepost LKX–382.47 at McCaysville and milepost LKX–396.7 at Blue Ridge, in Fannin County, GA.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local

government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 22, 1995 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by June 2, 1995. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 12, 1995, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any pleading filed with the Commission should be sent to applicant's representative: Charles M. Rosenberger, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, the exemption is void *ab initio.*

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by May 26, 1995. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: May 16, 1995.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 95–12554 Filed 5–22–95; 8:45 am]

BILLING CODE 7035–01–P

[1] A stay will be issued routinely where an informed decision on environmental issues (whether raised by a party or by the Commission's Section of Environmental Analysis in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay on environmental grounds is encouraged to file promptly so that the Commission may act on the request before the effective date.

[2] See *Exempt. of Rail Abandonment Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept late-filed trail use statements so long as it retains jurisdiction.

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on May 15, 1995 a proposed Joint Stipulation And Order of Dismissal in *United States* v. *Jeffrey M. Kanter and Kanter Cars, Inc.* Civil Action No. 1:95 CV 1073 was lodged with the United States District Court for the Northern District of Ohio. This Joint Stipulation And Order of Dismissal represents a settlement of claims against Jeffrey M. Kanter and Kanter Cars, Inc. for violations of the Clean Air Act.

On May 15, 1995, the United States filed a Complaint pursuant to Sections 204 and 205 of the Clean Air Act (''CAA'' or ''the Act''), 42 U.S.C. 7523 and 7524, for injunctive relief and assessment of civil penalties against Jeffrey M. Kanter and Kanter Cars, Inc. The Complaint alleged that Jeffrey M. Kanter and Kanter Cars, Inc. violated CAA Section 203(a)(1), 42 U.S.C. 7522(a)(1), by manufacturing and selling Citroen 2CV based automobiles which were not covered by certificates of conformity issued under CAA Section 206(a), 42 U.S.C. 7525(a). The United States, Jeffrey M. Kanter, and Kanter Cars, Inc. have reached a settlement which resolves the issues set forth in the Complaint. Under this settlement, Jeffrey M. Kanter and Kanter Cars, Inc. will pay the United States a civil penalty of $4800.00.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Joint Stipulation And Order of Dismissal. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Jeffrey M. Kanter and Kanter Cars, Inc.*, D.J. ref. 90–5–2–1–1870A.

The proposed Joint Stipulation And Order of Dismissal may be examined at the Office of the United States Attorney, Northern District of Ohio, 1800 Bank One Center, 600 Superior Ave, Cleveland, OH 44114–2600 and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. A copy of the proposed Joint Stipulation And Order of Dismissal may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $2.00 (25 cents per page reproduction costs) payable to the Consent Decree Library.

Joel M. Gross,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–12560 Filed 5–22–95; 8:45 am]

BILLING CODE 4410–01–M

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 95–5]

Request for Comments on the Waiver of Moral Rights in Visual Artworks

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of hearing and request for public comment.

SUMMARY: The Copyright Office is holding a public hearing to solicit comments on the effect of the waiver of moral rights provision of the Visual Artists Rights Act of 1990 (VARA). Section 608 of VARA requires the Copyright Office to study the effect of VARA's waiver provision and to publish its findings. To fulfill the statutory obligations of section 608, the Copyright Office is examining the extent to which authors waive moral rights in their visual artworks under the waiver provision. The Office also will accept written comments.

DATES: The public hearing will be held on Wednesday, June 21, 1995, from 10:00 a.m. to 4:00 p.m. Requests to present oral testimony at the hearing should be received on or before June 16, 1995. Written comments by those persons testifying at the hearing should

be received on or before June 19, 1995. All other written comments must be received on or before July 31, 1995.

ADDRESSES: Interested parties should submit written comments and requests to present oral testimony by mail to Marilyn J. Kretsinger, Acting General Counsel, Copyright Office GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024, or by hand delivery to the Office of General Counsel, Copyright Office, James Madison Memorial Building, Room LM 407, First Street and Independence Avenue, S.E., Washington, D.C., or by Telefax: (202) 707–8366. The hearing will be held in Room 414, which is located on the fourth floor of the Library of Congress, James Madison Memorial Building, First Street and Independence Avenue, S.E., Washington, D.C. Written comments and a transcript of the hearing will be available for public inspection in the Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room LM–407, First Street and Independence Avenue, S.E., Washington, D.C.

FOR ADDITIONAL INFORMATION CONTACT: Marilyn J. Kretsinger, Acting General Counsel, Copyright Office GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone (202) 707–8389. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On December 1, 1990, President Bush signed into law the Visual Artists Rights Act (VARA), which was codified as section 106A of title 17 of the United States Code and went into effect on June 1, 1991. VARA grants certain visual artists the moral right of attribution, which is the right to claim or disclaim authorship of a work, and the moral right of integrity, which is the right to prevent any intentional distortion, mutilation or other modification of a work which is prejudicial to the artist's reputation or honor and to prevent the destruction of a work of recognized stature by any intentional or grossly negligent act. VARA also provides that these rights may not be transferred but can be waived.

The waiver provision was the most controversial portion of VARA. Congress was concerned that artists might be compelled to waive their rights of integrity and attribution. This concern is detailed in the House Report:

> The Committee intends to ensure that the waiver provisions serve to facilitate current practices while not eviscerating the protections provided by the proposed law. It is important, therefore, for the Congress to know whether waivers are being automatically obtained in every case involving a covered work of visual art, whether any imbalance in the economic bargaining power of the parties serves to compel artists to waive their rights, and whether the parties are properly adhering to the strict rules governing waiver.

H.R. Rep. No. 514, 101st Cong., 2d Sess. 22 (1990).

To address this concern, when Congress passed VARA it included section 608, requiring the Copyright Office to study the waiver provision to determine whether artists' contracts routinely provide for waiver of moral rights. Specifically, section 608 requires the Copyright Office to study the extent to which the rights conferred by VARA are being waived by visual artists and to present its findings to Congress in an interim report which was submitted on December 1, 1992, and in a final report which must be submitted by December 1, 1995. The Copyright Office is in the process of preparing this final report.

I. Background

On March 1, 1989, the United States acceded to the Paris text of the Berne Convention for the Protection of Literary and Artistic Works. Article 6*bis* of the Berne Convention requires countries to provide protection of the moral rights of paternity and integrity.[1] During the debate on adherence to the Berne Convention, some argued that the United States needed to enact specific moral rights legislation. The vast majority of those seeking adherence contended that existing laws, both Federal and State, statutory and common, were sufficient to meet the requirements of the Berne Convention. Congress agreed with the majority and therefore did not include any substantive moral rights provisions in the Berne Convention Implementation Act. H.R. Rep. No. 514, 101st Cong., 2d Sess. 7–8 (1990).

Congress acknowledged that adherence to the Berne Convention did not end the debate about whether the United States should adopt artists' rights laws and it did enact such a law in 1990; through VARA it created a uniform Federal system of rights for certain visual artists.

The scope of VARA is very narrow; it applies only to works of fine art which are identified as ''works of visual art.'' A ''work of visual art'' as defined in the Copyright Code includes any painting, drawing, print, sculpture, or still photographic image produced for exhibition purposes, produced in a single copy or an edition of 200 or fewer if signed and consecutively numbered by the artist. 17 U.S.C. 101 (1990). VARA specifically excludes works for hire, motion pictures and other audiovisual works, and works of applied art.[2]

If a work qualifies as a ''work of visual art'' the author of that work is granted two rights: the right of attribution and the right of integrity. The right of attribution gives the visual artist the right to be named as author of a work; the right to prevent use of his or her name as author of a work he or she did not create; and the right to prevent the use of his or her name if the work has been distorted, mutilated or modified in a manner that would be prejudicial to the artist's honor or reputation. 17 U.S.C. 106A(a) (1990). The right of integrity allows the artist to prevent intentional distortion or modification of the work that would be prejudicial to the artist's honor or reputation, and to prevent destruction of a work of recognized stature. *Id*.

The rights granted by VARA are not absolute. The integrity rights are subject to special provisions if the work of visual art is incorporated into or otherwise made part of a building. Where such a work of visual art cannot be removed from the building without being damaged or otherwise modified, the moral right of integrity in section 106A will apply unless the work was installed in the building before the effective date of VARA or the artist signed a written agreement acknowledging that the work may be damaged or modified when it is removed from the building. 17 U.S.C. 113(d)(1) (1990). If the work of visual art can be removed from the building without damage or modification, the moral rights in section 106A will apply unless the owner of the building complies with special notice requirements. See 17 U.S.C. 113(d)(2) (1990).

Another limitation on the rights granted by VARA concerns their duration. Despite Berne's general requirement that the term of protection for moral rights be at least coextensive with the term of protection for economic

[1] This provision was added in the Rome Conference (1928). As part of the VARA study, the Copyright Office is examining the moral rights protection, if any, in selected countries and also looking at case law and practices in those countries. This overview should provide some insight into international practice on waiver of moral rights.

[2] It also explicitly excludes posters, maps, globes, charts, technical drawings, diagrams, models, books, magazines, newspapers, periodicals, data bases, electronic information services, electronic publications and similar publications, any merchandising item or advertising, promotional, descriptive, covering, or packaging material or container, and any portion or part of any of these items. Works not entitled to copyright protection under title 17 are also excluded. 17 U.S.C. 101 (1990).

rights, which is the life of the author and fifty years after the author's death, VARA rights endure only for the life of the artist, or where the work is a joint work, the life of the last surviving artist. 17 U.S.C. 106A(d) (1990).

The subject of the study is waiver of the rights of integrity and attribution. Congress explicitly provided that the moral rights of integrity and attribution may be waived. 17 U.S.C. 106A(e) (1990). For a waiver to be valid it must be expressly agreed to in a written instrument that is signed by the artist and that specifically identifies the work and the uses of the work to which the waiver applies. 17 U.S.C. 106A(e)(1) (1990). A waiver will apply only to the work and uses identified in the written instrument. *Id.*[3] In the case of a joint work, a valid waiver by one author constitutes a waiver of the rights for all joint authors. *Id.*

The Copyright Office published a **Federal Register** notice on June 10, 1992, requesting information and inviting public comment on the moral rights waiver provision in VARA. 57 FR 24659 (1992). In response to this notice, the Copyright Office received a total of seven comments.[4] Although the comments were helpful, most of them were very brief. At the time of the interim report, VARA had been in effect for only two years and there were few, if any, measurable effects of the waiver provision. The comments of the seven parties are summarized in the interim report, submitted to Congress on December 1, 1992.

II. Current Status of the Copyright Office Study

The results of the interim study demonstrated that obtaining information from artists on their experience with the waiver provision for the final report would be a major challenge. The Copyright Office thus began an extensive outreach program aimed at getting factual information on the effects of VARA's waiver provision.

To reach individual artists, the Copyright Office developed a survey questionnaire designed to reveal the effect of VARA waiver provisions on the visual arts community. The survey was modeled in part after the ''Volunteer Lawyers for the Arts Visual Artists Rights Act of 1990 Questionnaire'' submitted by the Massachusetts Volunteer Lawyers for the Arts in response to the June 1992 **Federal Register** notice.

One goal of the survey was to determine whether waiver of moral rights provisions are routinely included in art contracts; and, if so, whether this occurs because of the parties' relative bargaining power or for other reasons. Another goal of the survey was to ascertain whether waivers occur only in the context of a written contract, as required by statute, or whether waivers also occur orally.

Following review of the survey by a group consisting of copyright experts and representatives of the art community, the Office revised and distributed the survey questionnaire to hundreds of visual art-related organizations. These organizations consisted primarily of state art councils, volunteer lawyers for the arts associations, and art schools and universities. Altogether, the Copyright Office mailed out more than 6,800 surveys. The actual number of surveys distributed was far greater, however, because many of the surveys were duplicated by the recipient organizations and distributed to still others in the visual arts community.

III. Preliminary Analysis of VARA Survey

By May 15, 1995, the Copyright Office had received 1063 completed surveys. Our final report to Congress will include a detailed analysis of survey results, but a preliminary analysis of 985 surveys received by mid-April reveals the following data.

A. Knowledge of VARA

Even five years after VARA's enactment, survey results indicated that educating artists about their new moral rights is perhaps as critical as the Congressional intent to study the extent to which artists waive these rights. The survey, therefore, fulfilled an educational need. Before receiving the survey, 73 percent of all respondents were aware of moral rights in certain works of visual art. Fifty-eight percent, however, previously were unaware such rights could be waived, and sixty-six percent did not know that waiver requires an express, written agreement. Seventy-nine percent of all respondents said they have not seen contracts that include a waiver provision. Eight percent have waived moral rights in a signed contract, but a full 77 percent have not, and five percent said they did not know.

B. Respondent Profile

The majority of responses were from artists. Ninety percent of respondents believed they were covered by the survey's definition of ''visual artist'' (i.e., one who creates a ''work of visual art'' as defined by VARA). Of these, 58 percent identified themselves as painters (an artist could check as many media as applied). Only eight percent of respondents were not VARA artists: Of these, five percent created art works not covered by VARA, another two percent were art professors, and the remaining were others associated with the arts.

Most respondents did not earn a significant income from their art. More than half have worked under commission, but 68 percent earned less than $10,000 from their art in an average year. Five percent claimed income between $25,000–$40,000, and nine percent said their art-related income exceeded that amount. Roughtly half were represented by a gallery or agent, but 42 percent had no repression.

C. Willingness to Waive Moral Rights

Forty-four percent of artists indicated they were unwilling to waive moral rights in the future. Seven percent would waive such rights; 36 percent did not know whether they would waive these rights, and 123 artists declined to say.

Of seventy-nine individuals who had waived the right of integrity or attribution in a signed contract, 42 said they did so to gain exposure and 37 said they did so to make a sale. Eleven percent had declined a contract because it included a waiver clause, and 13 percent had insisted such a clause be struck before signing. Most artists (58%) did not know whether rejecting a waiver would cost them the contract, but some (15%) thought it would. Eighty-one percent had never been pressured to waive moral rights, but six percent had.

IV. Subject Matter To Be Addressed at the Public Hearing

To supplement the information gathered through the survey, the Copyright Office will hold a public hearing to solicit comments on the effect of the waiver of moral rights provision in the Visual Artists Rights Act. We anticipate that the hearing will provide an opportunity to obtain more information on existing practices relating to waivers of moral rights in visual art.

The Copyright Office is also interested in studying actual or model contracts that contain language concerning waiver

[3] VARA does not permit blanket waivers and prohibits the specific person to whom the waiver is made from transferring the waiver to a third party. H.R. Rep. No. 514, 101st Cong., 2d Sess. 18–19 (1990).

[4] Comments were received from the Nebraska Arts Council; Professor of Law, John Henry Merryman; the Capital Arts Center/BG–WC Arts Commission; the General Services Administration; the Committee for America's Copyright Community; Volunteer Lawyers for the Arts of Massachusetts, Inc.; and Volunteer Lawyers for the Arts of New York.

of moral rights. We would like to see examples of as many visual art contracts as possible, especially those with waivers, and would appreciate any party sending us such contracts.

The Copyright Office specifically invites comments on the following questions:

Awareness of rights. To what extent are artists aware of VARA and the rights of integrity and attribution provided by VARA? Has awareness of VARA increased? Please give examples.

Extent of waiver. Are waiver of moral rights provisions routinely included in artists' contracts? Do parties that obtain waiver of moral rights in a contract exercise the waiver or is a waiver secured merely as an ''insurance policy''? Does waiver vary depending on the nature of the work? For example, are mobiles and sculptures treated differently than paintings and prints? Does it vary based on the location of the work, for example, murals that are part of buildings? What experiences have artists had with owners of buildings? Does it vary depending on the purchaser? Does it matter whether the purchaser is a national or regional institution, an owner of a public or private building, an art collector or investor? Please give examples where possible.

Contract specifics. What is the economic effect of a waiver in the course of contract negotiations? Is there any evidence on how much a waiver is worth—that is, how much more a purchaser would pay if the artist waived the right? Are there proportionately more waivers given for artistic works that are included in buildings than for other types of works? When a waiver is included in a contract, does the contract specifically identify the work and use for which the waiver applies? What types of contracts include waivers: contracts for sale of work? contracts for transfer of copyright ownership? contracts for commissioned works? contracts that include only a waiver provision? If a waiver is included in a contract, is that waiver limited in duration? If limited in duration, what is the typical term of the waiver?

Artists' concerns. What are the factors artists consider when determining whether to agree to a waiver of moral rights in a contract? Describe any instances where artists were coerced into waiving their moral rights. Has VARA had an effect on commission of visual art?

Do artists have unequal bargaining power when dealing with established galleries and other organizations? If the artist's selling power (demand for his or her works) or reputation affects or determines whether or not waiver will be required, how much experience or how well know does the artist have to be in order to avoid waiver? Give specific examples, if possible.

Experience in other countries. What types of experiences have artists had with moral rights abroad? Are artists asked to waive their moral rights in contracts entered into in foreign countries? If so, in what countries?

Experience with U.S. law. Should moral rights be waivable? Should the provisions of the Visual Artists Rights Act be amended or modified in any way?

The Copyright Office is interested in receiving public comment on these issues and any other issues relevant to the VARA study.

Dated: May 18, 1995.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 95–12606 Filed 5–22–95; 8:45 am]

BILLING CODE 1410–30–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 95–031]

National Environmental Policy Act; International Space Station Program

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of intent to prepare a Tier 2 environmental impact statement (EIS) and conduct scoping for the assembly and operation of the proposed International Space Station (ISS) Program.

SUMMARY: The National Aeronautics and Space Administration, in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA's policy and procedures (14 CFR Part 1216 Subpart 1216.3), intends to prepare a Tier 2 EIS for the ISS Program. The proposed action by NASA is to continue to provide U.S. participation in the assembly and operation of the ISS. The alternative is cancellation of the ISS Program, specifically, the ''No Action'' alternative. The Tier 2 EIS will focus on those areas of the ISS Program which have changed substantially since the Tier 1 EIS was prepared. This includes modifications to the space station itself, its assembly and operation, and an assessment of the probability and consequences of reentry of the station into Earth's atmosphere.

DATES: Interested parties are invited to submit written comments to NASA on or before July 7, 1995, to ensure full consideration during the scoping process.

ADDRESSES: Comments should be in writing and addressed to Mr. David Ruszczyk, NASA Johnson Space Flight Center, Code OF, Houston, Texas 77058–3696.

FOR FURTHER INFORMATION CONTACT: Mr. David Ruszczyk, 713–244–7756.

SUPPLEMENTARY INFORMATION: NASA issued the Final Tier 1 Environmental Impact Statement for Space Station Freedom, March 1991 (hereinafter referred to as the ''Tier 1 EIS''). The Tier 1 EIS was prepared as part of the decision process to determine whether to proceed with the development, assembly, and operation of a human occupied space station in cooperation with the Canadian Space Agency, the European Space Agency, and Japan's National Space Development Agency. Several programmatic and design configuration alternatives were considered, along with the alternative to take no action. The program decision, made on the basis of the Tier 1 EIS and other relevant documents, was to proceed with full scale design and development of the concept known as Space Station Freedom.

At the time the Tier EIS was prepared, detailed design information was not available. As a consequence, some issues relating to the potential environmental effects of Space Station Freedom were deferred to the Tier 2 EIS. These issues included the impacts of any significant design modifications that might be incorporated as the design matured; and a quantitative analysis of the probability and consequences of accidental or uncontrolled reentry into the Earth's atmosphere during assembly and operation. Other impacts that were reserved include venting of nontoxic gases during station operation, and change to a hydrazine propulsion system.

On March 9, 1993, the President directed NASA to undertake a major redesign of the space station program in such a manner that major reductions in the projected costs of Space Station Freedom could be realized. An Advisory Committee on the Redesign of the Space Station was chartered to provide advice with respect to the redesign options for the U.S. space station program. The results of the redesign studies were presented in the Space Station Redesign Team Final Report to the Advisory Committee on the Redesign of the Space Station, dated June 1993. The result was the currently proposed ISS, which

includes design modifications and agreements to include Russia as a partner, and incorporates Russian hardware and capabilities into the program.

The proposed action considered in this Tier 2 EIS is to continue the implementation of the U.S. contribution to the overall effort to assemble and operate the ISS. The remaining alternative involves the ''No Action'' alternative (*i.e.,* cancellation of U.S. participation in the ISS). Significant design changes that have occurred since the Tier 1 EIS include, but are not necessarily limited to, the following: The number of research laboratories on the space station has been increased from three to six; the number of logistics modules has been increased from one to two; the pressurized volume has been almost doubled; the crew size has been increased from four to six; and the orbital inclination has been changed from 28.5 degrees to 51.6 degrees, permitting space station access by Russian launch vehicles and additional mission control capabilities from Russia's mission control center. The ISS contemplates 15 Russian launches, increasing the total number of launches through completion of assembly from 32 to 44, and reducing the number of U.S. launches from 29 to 27, one European launch, and one launch yet to be determined. Accordingly, resupply flights to the completed ISS will now include Russian as well as U.S. flights; whereas Space Station Freedom was to be resupplied exclusively by U.S. Space Shuttle flights. The planned U.S. launches will not include any expendable launch vehicles; only the Space Shuttle will be used. However, the U.S. may use expendable launch vehicles in a contingency or backup role.

The design of the ISS has progressed to the point where it is now possible to conduct a quantitative analysis of the probability and consequences of accidental or uncontrolled reentry into the Earth's atmosphere. The Tier 2 EIS will assess the probabilities and potential impacts associated with accidental or uncontrolled reentry. The Tier 2 EIS also will address decommissioning alternatives, including the plan presented in the Tier 1 EIS.

Other issues to be addressed in the Tier 2 EIS include, but will not necessarily be limited to, the following: the cumulative effects of the U.S. launches associated with the assembly and operation of the ISS; the change to a Unsymmetrical Dimethylhydrazine/ Nitrogen Tetroxide propulsion system; and the venting and outgassing of nontoxic gases from the ISS. The Tier 2 EIS will address environmental effects on the United States and the integrated ISS impacts on the global commons.

Written public input and comments on the range of alternatives being considered and the potential environmental issues related to the assembly and the operation of the International Space Station are hereby solicited.

Dated: May 12, 1995.

Benita A. Cooper,

Associate Administrator for Management Systems and Facilities.

[FR Doc. 95–12553 Filed 5–22–95; 8:45 am]

BILLING CODE 7510–01–M

[Notice 95–032]

Intent To Grant a Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant MERCO Incorporated, 1667 Cole Boulevard, Suite 400, Golden, Colorado 80401, a partially exclusive license to practice the invention protected by U.S. Patent No. 5,128,797, ''NON-MECHANICAL OPTICAL PATH SWITCHING AND ITS APPLICATION TO DUAL BEAM SPECTROSCOPY INCLUDING GAS FILTER CORRELATION RADIOMETRY,'' which was issued on July 7, 1992, by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The partially exclusive license will contain appropriate terms and conditions to be negotiated in accordance with the Department of Commerce patent licensing regulations (37 CFR 404). NASA will negotiate the final terms and conditions and grant the license unless, within 60 days of the date of this notice, the Director of Patent Licensing receives written objections to the grant, together with supporting documentation. The Director of Licensing will review all written responses to the notice and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Comments to the notice must be received by July 24, 1995.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff, NASA, Director of Patent Licensing, (202) 358–2041.

Dated: May 16, 1995.

Edward A. Frankle,

General Counsel.

[FR Doc. 95–12552 Filed 5–22–95; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL INSTITUTE FOR LITERACY

National Institute for Literacy Advisory Board; Meeting

AGENCY: National Institute for Literacy Advisory Board, National Institute for Literacy.

ACTION: Notice of meeting.

SUMMARY: This Notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Advisory Board (Board). This notice also describes the function of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

DATES AND TIMES: June 15, 1995, 9 a.m. to 4 p.m.

ADDRESSES: World Education, 210 Lincoln Street, 6th Floor, Boston, Massachusetts, 02111.

FOR FURTHER INFORMATION CONTACT: Sharyn M. Abbott, Acting Executive Officer, National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006. Telephone (202) 632–1503.

SUPPLEMENTARY INFORMATION: The Board is established under Section 384 of the Adult Education Act, as amended by Title I of Public Law 102–73, the National Literacy Act of 1991. The Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and the Director of the Institute. In addition, the Institute consults with the Board on the award of

fellowships. The Board will meet in Boston, Massachusetts on June 15, 1995 from 9 a.m. to 4 p.m. The meeting of the Board is open to the public. The agenda includes discussion of the Institute's plans and priorities for program years 1995 and 1996; the status of new Board member nominations; and other relevant Institute matters. Records are kept of all Board proceedings and are available for public inspection at the National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006 from 8:30 a.m. to 5 p.m.

Dated: May 17, 1995.

Andrew J. Hartman,

Executive Director, National Institute for Literacy.

[FR Doc. 95–12536 Filed 5–22–95; 8:45 am]

BILLING CODE 6055–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 1, 1995, through May 12, 1995. The last biweekly notice was published on May 10, 1995 (60 FR 24904).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By June 23, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the

bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: April 6, 1995.

Brief description of amendments: The proposed amendment involves changes in personnel titles, implementation of line item improvements delineated in Generic Letter 93–07, ''Modification of the Technical Specification Administrative Control Requirements for Emergency and Security Plans,'' changes in the Plant Review Board, and miscellaneous minor changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

These changes involve (1) minor changes in the organization of PVNGS, (2) line item improvements recommended by the NRC, or (3) clarification or corrections to existing specifications. It is expected that the organizational changes will have a positive effect on the conduct of plant operations and safety-related work. Functions which are necessary to operate the facility safely and in accordance with the operating licenses, remain in the new organization. The line item improvements to the Technical Specifications will not affect the safe operation of the plant and continue to ensure proper control of administrative activities. The proposed changes will not affect the operation of structures, systems and components, and will not reduce programmatic controls such that plant safety would be affected. Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed changes will not affect the operation of structures, systems and components, and will not reduce programmatic controls such that plant safety would be affected. The changes in the organization and as a result of line item improvements will continue to provide necessary oversight and control of administrative processes. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

(3) The proposed changes do not involve a significant reduction in a margin of safety.

These changes are administrative and will not diminish any organizational or administrative controls currently in place. The proposed changes will not affect the operation of structures, systems and components, and will not reduce programmatic controls such that plant safety would be affected. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensee: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Project Director: William H. Bateman.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, Maricopa County, Arizona

Date of amendment requests: April 18, 1995.

Description of amendment requests: The proposed Technical Specification amendments would revise the surveillance requirements for Technical Specification 3/4.4.4, ''Steam Generators,'' and the associated Bases. These amendments would allow the installation of tube sleeves as an alternative to plugging defective steam generator tubes.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment to permit the use of steam generator tube sleeves as an alternative to tube plugging is a safe and effective repair procedure that does not require removing a tube from service. Mechanical strength, corrosion resistance, installation methods, and inservice inspection techniques of sleeves have been shown to meet NRC acceptance criteria.

Analytical verifications were performed using design and operating transient parameters selected to envelope loads imposed during normal operating and accident conditions. Fatigue and stress analysis of sleeved tube assemblies were completed in accordance with the requirements of Section III of the ASME Code. The results of qualification testing, analysis and plant operating experience at other facilities demonstrates that the sleeving process is an acceptable means of maintaining steam generator tube integrity. The sleeve configuration has been designed and analyzed in accordance with the structural margins specified in Regulatory Guide (RG) 1.121. Furthermore, the installed sleeve will be monitored through periodic inspections on a sample basis with eddy current techniques. A sleeve-specific plugging margin, per the recommendations of RG 1.121, has been specified with appropriate allowances for NDE (nondestructive examination) uncertainty and defect growth rate.

The consequences of accidents previously analyzed are not increased as a result of sleeving activities. The hypothetical failure of the sleeve would be bounded by the current steam generator tube rupture analysis contained in the PVNGS (Palo Verde Nuclear Generating Station) UFSAR (updated final safety analysis report). Due to the slight reduction in diameter caused by the sleeve wall thickness, it is expected that the primary release rates would be less than assumed for the steam generator tube rupture analysis, and therefore would result in lower total primary fluid mass release to the secondary system. Additionally, further conservatism is introduced if the break were postulated to occur at a location on the tube higher than the location where a sleeve is installed. The overall effect would be reduced steam generator tube rupture release rates. The minimal reduction in flow area associated with a tube sleeve has no significant affect on steam generator performance with respect to heat transfer or system flow resistance and pressure drop. The installation of sleeves rather than plugging also maintains a greater heat transfer surface in the steam generator. In any case, the impacts are bounded by evaluations which demonstrate the acceptability of tube plugging which totally removes the tube from service. Therefore, in comparison to plugging, tube sleeving is considered a significant improvement with respect to steam generator performance. The cumulative impact of multiple sleeved tubes was evaluated to ensure the effects remain within the analytical design bases.

Recent industry experience with forced shutdown events associated with tube failures at sleeve junctions was assessed by ASP and ABB–CE. The root cause of these events has been attributed to the lack of proper post-installation stress relief and/or the imposition of high stresses due the tube growth restrictions at locked tube support. The material and design of the PVNGS steam generator supports minimizes the potential for locked supports. The tube supports are of eggcrate design and are constructed of ferritic stainless steel. The large flow area in the eggcrate design provides better irrigation and reduces the potential for steam blanketing, therefore, the tube-to-tube support crevices are less likely to be blocked by crud, boiler water deposits and corrosion products. Since the support material is type 409 ferritic stainless steel, it is not susceptible to magnetite corrosion which has resulted in denting and lockup at plants with carbon steel supports. These conclusions have been substantiated via tube pull activities conducted in PVNGS Unit 2. Although ABB–CE does not require post-weld heat treatment in all applications, APS will require that a post-weld stress relief be conducted for all sleeve installations.

APS has incorporated an integrated leakage monitoring program, utilizing equipment, procedure upgrades and administrative shutdown limits significantly lower than Technical Specification requirements. The program is designed to provide plant operators with the ability to detect and respond to changes in primary-to-secondary leakage and shutdown the unit prior to a significant leak or steam generator tube rupture, should sleeve or tube degradation exceed expected values. The program is designed to reduce the probability of steam generator tube rupture events.

Therefore, based on the above, the proposed amendment does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously analyzed.

A sleeved steam generator tube performs the same function in the same passive manner as an unsleeved steam generator tube. Tube sleeves are designed, qualified, and maintained under the stress and pressure limits of Section III of the ASME Code and Regulatory Guide 1.121.

The installation of the sleeve, including weld and welder qualification and nondestructive examination (NDE), meets or exceeds the requirements of ASME Section XI. Three types of NDE are conducted. Ultrasonic Testing (UT) is performed to verify adequacy of the tube to sleeve weld assuring proper fusion. Eddy current testing (ET) is performed following each installation to establish baseline data for each sleeve in order to monitor future degradation of the primary to secondary pressure boundary. Visual inspections may be performed to verify or ascertain the mechanical and structural condition of a weld. Critical conditions which are checked include weld width and completeness, and the absence of visibly noticeable indications such as cracks, pits, and burn through.

ABB-Combustion Engineering Inc., Report CEN–613–P, ''Arizona Public Service Co., Palo Verde Units 1, 2, and 3, Steam Generator Tube Repair Using Leak Tight Sleeves,'' Revision 01, January 1995, demonstrates that the repair of degraded steam generator tubes using tube sleeves will result in tube bundle integrity consistent with the original design basis. An extensive analysis and corrosion and mechanical test programs were undertaken to prove the adequacy of tube sleeve repair. The proposed amendments have no significant effect on the configuration of the plant, and the change does not effect the way in which the plant is operated. Based upon the results of the analytical and test programs described in the ABB Combustion Engineering Inc. report, the tube sleeve fulfills its intended function and meets or exceeds established design criteria. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Evaluation of the sleeved tubes indicates no detrimental effects on the sleeve-tube assembly resulting from reactor system flow, coolant chemistries, or thermal and pressure conditions. Structural analyses of the sleeve-tube assembly, using demonstrated margins of safety, have established sleeve-tube integrity under normal and accident conditions. Structural analyses have been performed for sleeves which span the tube at the top of the tubesheet and which span the flow distribution plate or eggcrate support. Mechanical testing has been performed to support the analyses. Corrosion testing of typical sleeve-tube assemblies has been completed and reveals no evidence of sleeve or tube corrosion considered detrimental under anticipated service conditions.

Based upon the testing and analyses performed, the installation of tube sleeves will not result in a significant reduction in a margin of safety.

Steam generator tube integrity is maintained under the same limits for sleeved tubes as for unsleeved tubes, i.e., Section III of the ASME Code and Regulatory Guide 1.121. The portions of the installed sleeve assembly which represents the reactor coolant pressure boundary can be monitored for the initiation and progression of sleeve/tube wall degradation, thus satisfying the requirements of Regulatory Guide 1.83. The degradation limit at which a sleeve/tube boundary is considered inoperable has been analyzed in accordance with Regulatory Guide 1.121 and is specified. Eddy current detectability of flaws has been verified by ABB Combustion Engineering. The Technical Specifications continue to require monitoring and restriction of primary to secondary system leakage through the steam generators. A conservative integrated leakage program employed by APS provides reasonable assurance than an orderly unit shutdown will

occur prior to a significant increase in leakage due to failure of a sleeved or unsleeved tube. The minimal reduction in reactor coolant system flow, due to sleeving, is considered to have an insignificant impact on steam generator operation during normal operation or accident conditions and is bounded by tube plugging evaluations. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on that review, it appears that the three standards of § 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999.

NRC Project Director: William H. Bateman.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendment request: February 16, 1993, as supplemented by letter dated May 2, 1995.

Description of amendment request: As a result of findings by a Diagnostic Evaluation Team inspection performed by the NRC staff at the Dresden Nuclear Power Station in 1987, Commonwealth Edison Company (ComEd, the licensee) made a decision that both the Dresden Nuclear Power Station and sister site Quad Cities Nuclear Power Station, needed attention focused on the existing custom Technical Specifications (TS) used.

The licensee made the decision to initiate a Technical Specification Upgrade Program (TSUP) for both Dresden and Quad Cities. The licensee evaluated the current TS for both Dresden and Quad Cities against the Standard Technical Specifications (STS) contained in NUREG–0123, ''Standard Technical Specifications General Electric Plants BWR/4.'' The licensee's evaluation identified numerous potential improvements such as clarifying requirements, changing TS to make them more understandable and to eliminate interpretation, and deleting requirements that are no longer considered current with industry practice. As a result of the evaluation, ComEd has elected to upgrade both the Dresden and Quad Cities TS to the STS contained in NUREG–0123.

The TSUP for Dresden and Quad Cities is not a complete adaption of the STS. The TSUP focuses on (1) integrating additional information such as equipment operability requirements during shutdown conditions, (2) clarifying requirements such as limiting conditions for operations and action statements utilizing STS terminology, (3) deleting superseded requirements and modifications to the TS based on the licensee's responses to Generic Letters (GL), and (4) relocating specific items to more appropriate TS locations.

The February 16, 1993, and May 2, 1995, applications proposed to upgrade only Section 3/4.10 (Refueling Operations) of the Dresden and Quad Cities TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because:

In general, the proposed amendment represents the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analysis. Implementation of these changes will provide increased reliability of equipment assumed to operate in the current safety analysis, or provide continued assurance that specified parameters remain within their acceptance limits, and as such, will not significantly increase the probability or consequences of a previously evaluated accident.

Some of the proposed changes represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. The proposed amendment for Dresden and Quad Cities Station's Technical Specification Section 3/4.10 are based on STS guidelines or later operating BWR plant's NRC accepted changes. Any deviations from STS requirements do not significantly increase the probability or consequences of any previously evaluated accidents for Dresden or Quad Cities Stations. The proposed amendment is consistent with the current safety analyses and has been previously determined to represent sufficient requirements for the assurance and reliability of equipment assumed to operate in the safety analysis, or provide continued assurance that specified parameters remain within their acceptance limits. As such, these changes will not significantly increase the probability or consequences of a previously evaluated accident.

The associated systems that make up the Refueling Systems are not assumed in any safety analysis to initiate any accident sequence for Dresden or Quad Cities Stations; therefore, the probability of any accident previously evaluated is not increased by the proposed amendment. In addition, the proposed surveillance requirements for the proposed amendments to these systems are generally more prescriptive than the current requirements specified within the Technical Specifications. The additional surveillance requirements improve the reliability and availability of all affected systems and therefore, reduce the consequences of any accident previously evaluated as the probability of the systems outlined within Section 3/4.10 of the proposed Technical Specifications, performing its intended function is increased by the additional surveillances.

Create the possibility of a new or different kind of accident from any previously evaluated because:

In general, the proposed amendment represents the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analysis. Others represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. These changes do not involve revisions to the design of the station. Some of the changes may involve revision in the operation of the station; however, these provide additional restrictions which are in accordance with the current safety analysis, or are to provide for additional testing or surveillances which will not introduce new failure mechanisms beyond those already considered in the current safety analyses.

The proposed amendment for Dresden and Quad Cities Station's Technical Specification Section 3/4.10 is based on STS guidelines or later operating BWR plants' NRC accepted changes. The proposed amendment has been reviewed for acceptability at the Dresden and Quad Cities Nuclear Power Stations considering similarity of system or component design versus the STS or later operating BWRs. Any deviations from STS requirements do not create the possibility of a new or different kind of accident previously evaluated for Dresden or Quad Cities Stations. No new modes of operation are introduced by the proposed changes, considering the acceptable operational modes in present specifications, the STS, or later operating BWRs. Surveillance requirements are changed to reflect improvements in technique, frequency of performance or operating experience at later plants. Proposed changes to action statements in many places add requirements that are not in the present technical specifications or adopt requirements that have been used successfully at other operating BWRs with designs similar to Dresden and Quad Cities. The proposed changes maintain at least the present level of operability. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The associated systems that make up the Refueling Systems are not assumed in any

safety analysis to initiate any accident sequence for Dresden or Quad Cities Stations. In addition, the proposed surveillance requirements for affected systems associated with the Refueling Systems are generally more prescriptive than the current requirements specified within the Technical Specifications; therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

Involve a significant reduction in the margin of safety because:

In general, the proposed amendment represents the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analysis. Others represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. Some of the later individual items may introduce minor reductions in the margin of safety when compared to the current requirements. However, other individual changes are the adoption of new requirements which will provide significant enhancement of the reliability of the equipment assumed to operate in the safety analysis, or provide enhanced assurance that specified parameters remain with their acceptance limits. These enhancements compensate for the individual minor reductions, such that taken together, the proposed changes will not significantly reduce the margin of safety.

The proposed amendment to Technical Specification Section 3/4.10 implements present requirements, or the intent of present requirements in accordance with the guidelines set forth in the STS. Any deviations from STS requirements do not significantly reduce the margin of safety for Dresden or Quad Cities Stations. The proposed changes are intended to improve readability, usability, and the understanding of technical specification requirements while maintaining acceptable levels of safe operation. The proposed changes have been evaluated and found to be acceptable for use at Dresden and Quad Cities based on system design, safety analysis requirements and operational performance. Since the proposed changes are based on NRC accepted provisions at other operating plants that are applicable at Dresden and Quad Cities and maintain necessary levels of system, component or parameter (reliability), the proposed changes do not involve a significant reduction in the margin of safety.

The proposed amendment for Dresden and Quad Cities Stations will not reduce the availability of systems associated with the Refueling Systems when required to mitigate accident conditions; therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: For Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Robert A. Capra.

Duke Power Company, et al., Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: September 19, 1994, as supplemented by letter dated April 26, 1995.

Description of amendment request: The amendments would change the Technical Specifications (TS) to increase the enrichment limits for fuel stored in the fuel pools and establish restricted loading patterns and associated burnup criteria for qualifying fuel in the spent fuel pools. In addition, several administrative changes have been included in order to provide clarity to the TS and bring them more in line with the Standard Technical Specifications format. These changes are as follows:

(1) The TS index is changed to add TS 3/4.9.12 and 3/4.9.13, Tables 3.9–1 and 3.9–2 and Figure 3.9–1.

(2) TS 3/4.9.12, Spent Fuel Pool (SFP) Boron Concentration, is added to establish a boron concentration limit and to establish a Limiting Condition for Operation (LCO) for all modes of operation and to allow the numerical value of the limit to be specified in the Core Operating Limits Report (COLR).

(3) TS 3/4.9.13, Tables 3.9–1 and 3.9–2 and Figure 3.9–1 are being added to establish restricted loading patterns for spent fuel storage and associated burnup criteria.

(4) Corresponding BASES for TSs 3/4.9.12 and 3/4.9.13 are added to explain the basis for each LCO, Action Statement, and Surveillance Requirement covered by the subject TSs.

(5) TS 5.6, Fuel Storage, is changed to reflect limits for criticality analysis for fuel storage.

(6) TS 6.9, Reporting Requirements, is changed to reflect the inclusion of the SFP boron concentration limit values in the COLR as established by TS 3/4.9.12.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

There is no increase in the probability or consequences of an accident in the new fuel vault since the only credible accidents for this area are criticality accidents and it has been shown that calculated, worst case K_{eff} for this area is (less than or equal to) 0.95 under all conditions.

There is no increase in the probability of a fuel drop accident in the Spent Fuel Storage Pool since the mass of an assembly will not be affected by the increase in fuel enrichment. The likelihood of other accidents, previously evaluated and described in Section 9.1.2 of the FSAR (Final Safety Analysis Report), is also not affected by the proposed changes. In fact, it could be postulated that since the increase in fuel enrichment will allow for extended fuel cycles, there will be a decrease in fuel movement and the probability of an accident may likewise be decreased. There is also no increase in the consequences of a fuel drop accident in the Spent Fuel Pool since the fission product inventory of individual fuel assemblies will not change significantly as a result of increased initial enrichment. In addition, no change to safety related systems is being made.

Therefore, the consequences of a fuel rupture accident remain unchanged. In addition, it has been shown that K_{eff} is (less than or equal to) 0.95, under all conditions. Therefore, the consequences of a criticality accident in the Spent Fuel Pool remain unchanged as well.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not create the possibility of a new or different kind of accident since fuel handling accidents (fuel drop and misplacement) are not new or different kinds of accidents. Fuel handling accidents are already discussed in the FSAR for fuel with enrichments up to 4.0 weight %. As described in Section IV.9 of Attachment IV, additional analyses have been performed for fuel with enrichment up to 5.00 weight %. Worst case misloading accidents associated with the new loading patterns were evaluated. It was shown that the negative reactivity provided by soluble boron maintains K_{eff} (less than or equal to) 0.95.

3. The proposed changes do not involve a significant reduction in the margin of safety.

The proposed change does not involve a significant reduction in the margin of safety since, in all cases, a K_{eff} [less than or equal to] 0.95 is being maintained. Criticality analyses have been performed which show that the new fuel storage vault will remain subcritical under a variety of moderation conditions, from fully flooded to optimum moderation. As discussed above, the Spent Fuel Pool will remain sufficiently subcritical during any fuel misplacement accident.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are

satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: Herbert N. Berkow.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of amendment request: March 30, 1995, and supplemented May 5, 1995.

Description of amendment request: The licensee proposes to change Turkey Point Units 3 and 4 Technical Specifications (TS) by separation of the 24-hour emergency diesel generator (EDG) run from the hot restart EDG test.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS changes would revise the EDG surveillance criteria to allow the EDG hot-start test with full ESF load acceptance to be performed separately and independently from the 24-hour EDG run. The proposed SRs (surveillance requirements) would continue to demonstrate that the objectives of these two tests are met. Specifically, the EDGs are shown to be: (1) Capable of starting and running continuously at full load capability for an interval not less than 24 hours, and (2) capable of restarting from a full load temperature condition. The proposed changes would not affect the EDGs' ability to support mitigation of the consequences of any previously evaluated accident. Additionally, the proposed changes to the SRs do not affect the initiating assumptions or progression of any accident sequence.

Therefore, operation of the facility would not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS SR changes do not require any physical changes to the plant or equipment, and do not impact any design or functional requirements of the EDGs. The proposed changes do not create any plant configurations which are prohibited by the TS. The proposed changes continue to meet the EDG test objectives associated with demonstrating EDG operability.

Therefore, operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The proposed TS SR changes do not require any physical changes to the plant or equipment and do not impact any design or functional requirements of the EDGs. Surveillance testing in accordance with the proposed TS will continue to demonstrate the ability of the EDGs to perform their intended function of providing electrical power to mitigate design basis transients, consistent with the plant safety analyses.

Therefore, operation of the facility in accordance with the proposed amendments would not involve a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of § 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

Attorney for licensee: J. R. Newman, Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: David B. Matthews.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: April 7, 1995.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) to relocate the axial power distribution limits to the Core Operating Limits Report (COLR).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change relocates the cycle-specific Axial Power Distribution (APD) limits contained in Figure 1–2 of the Technical Specifications (TS), to the Core Operating Limits Report (COLR). This change is consistent with the NRC recommendations of Generic Letter 88–16, and will not modify the methodology used in generating the limits nor the manner in which they are implemented. The methodology used to determine the APD limits is reviewed and approved by the NRC in accordance with TS 5.9.5. The APD limits will continue to be determined by analyzing the same postulated events as previously analyzed. The plant will continue to operate within the limits specified in the COLR and will take the same remedial actions if the APD limit is exceeded as required by the current TS. Therefore, the proposed change would not increase the probability or consequences of an accident previously evaluated.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

There will be no physical alterations to the plant configuration, changes to setpoint values, or changes to the implementation of setpoints or limits as a result of this proposed change. The proposed change only relocates the APD figure from the TS to the COLR consistent with NRC Generic Letter 88–16. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety.

As indicated above, the implementation of the APD into the COLR, consistent with the guidance of NRC Generic Letter 88–16, makes use of the existing safety analysis methodologies and the resulting limits and setpoints for plant operation. Additionally, the safety analysis acceptance criteria for operations with the proposed change have not changed from that use in the current reload analysis. Therefore, the margin of safety is not reduced due to the relocation of the APD from the TS and implementation in the COLR.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae, 1875 Connecticut Avenue, NW., Washington, DC 20009–5728.

NRC Project Director: William Bateman.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: April 19, 1995 (Reference LAR 95–03).

Description of amendment requests: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2 to revise TS 3/4.8.1.1, ''A.C. Sources, Operating.'' The specific TS changes proposed are as follows:

(1) TS 4.8.1.1.2b.8), emergency diesel generator (EDG) 24-hour load run and hot restart surveillance, would be revised to delete the requirement to perform TS 4.8.1.1.2b.5)b), loss of offsite power (LOOP) load sequencing surveillance within 5 minutes following the 24-hour test.

(2) New TS 4.8.1.1.2e. would be added to perform an EDG hot restart test within 5 minutes of shutting down the EDG after the EDG has operated for at least 2 hours at a load of greater than or equal to 2484 kW.

(3) TS 4.8.1.1.2b.8), TS 4.8.1.1.2e., and footnote ''*'' on page 3/4 8–5 would be changed to be cycle-specific with the new TS requirements effective for Units 1 and 2, Cycle 8 and after.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Demonstrating emergency diesel generator (EDG) hot restart capability without sequencing loss of offsite power (LOOP) loads does not invalidate or reduce the effectiveness of the hot restart test, since normal operating temperatures are achieved prior to the hot restart test. Sequencing the LOOP loads does not contribute to verifying that the EDG will start from normal operating temperatures. The proposed TS 4.8.1.1.[2]e may be performed in any plant condition since performance of this new surveillance will have no adverse effect on plant operations. The reliability of the EDGs is not affected by the proposed changes.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve any physical alterations to the plant. The proposed changes will not have any adverse effect on the ability of the EDGs to perform their required safety function.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed changes will not alter any accident analysis assumptions, initial conditions, or results. Consequently, the proposed changes do not have any effect on the margin of safety. The proposed changes to the surveillance requirements would continue to demonstrate the ability of the EDGs to perform their intended safety function.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of § 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, PO Box 7442, San Francisco, California 94120.

NRC Project Director: William H. Bateman.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50–278, Peach Bottom Atomic Power Station, Unit No. 3, York County, Pennsylvania

Date of application for amendment: November 21, 1994.

Description of amendment request: The proposed change would extend the Type A test (i.e., Containment Integrated Leak Rate Test (CILRT)) interval on a one-time basis.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed Technical Specifications (TS) change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The accidents which are potentially adversely impacted by the proposed change are any Loss of Coolant Accident (LOCA) inside primary containment as described in the PBAPS, Units 2 and 3 UFSAR.

The proposed change increases the surveillance interval of the 10 CFR part 50, appendix J Type A test (i.e., Containment Integrated Leakage Rate Test (CILRT)) from 46 months to 70 months. This test is performed to determine that the total leakage from containment does not exceed the maximum allowable primary containment leakage rate (i.e., designated La) at a calculated peak containment internal pressure (Pa), as defined in 10 CFR part 50, appendix J. The primary containment limits the leakage of radioactive material during and following design bases accidents in order to comply with the offsite does limits specified in 10 CFR part 100. Accordingly, the primary containment is not an accident initiator. It is an accident mitigator. No physical or operational changes to the containment structure, plant systems, or components would be made as a result of the proposed change. Therefore, the probability of occurrence of an accident previously evaluated is not increased.

The failure effects that are potentially created by the proposed one-time TS change have been considered. The relevant components important to safety which are potentially affected are the containment structure, plant systems, and containment penetrations. There are no physical or operational changes to any plant equipment associated with the proposed TS change. Therefore, the probability or consequences of a malfunction of equipment important to safety is not increased.

The proposed change introduces the possibility that primary containment leakage in excess of the allowable value (i.e., La) would remain undetected during the proposed 24 month extension of the interval between the Type A tests. The types of mechanisms which would cause degradation of the primary containment can be categorized into two types. These are: (1) Degradation due to work which is performed as part of a modification or maintenance activity on a component or system (i.e., activity-based), or; (2) degradation resulting from a time-based failure mechanism.

A review of the history of the PBAPS, Unit 3 CILRT results was performed to evaluate the risk of activity-based and time-based degradation. This review has determined that the potential for a time-based and activity-based failure is minimal. The PBAPS LLRT program would identify most types of penetration leakage. The LLRT program involves measurement of leakage from Type B and Type C primary containment penetrations as defined in 10 CFR part 50, appendix J.

The 10 CFR part 50, appendix J, Type B tests are intended to detect local leaks and to measure leakage across pressure containing or leakage-limiting boundaries other than values, such as containment penetrations incorporating resilient seals, gaskets, expansion bellows, flexible seal assemblies, door operating mechanism penetrations that are part of the containment system, doors, and hatches. 10 CFR part 50, appendix J, Type C testing is intended to measure reactor system primary containment isolation valve leakage rates. The frequency of the Type B and Type C testing is not being altered by the

proposed TS change. The acceptance criterion for Type B and Type C leakage is 0.6 La (i.e., 0.3% wt/day) which, when compared to the Type A test acceptance criterion of 0.75 La (i.e., 0.375% wt/day), is a significant portion of the Type A test allowable leakage.

The proposed TS change only extends the interval between two consecutive Type A tests. The Type B and Type C tests will be performed as required. The Type B and Type C tests will continue to be used to confirm that the containment isolation valves and penetrations have not degraded. Containment system components that would not be tested are the containment structure itself and small-diameter instrumentation lines. Time-based degradation of any of the instrumentation lines would not likely be identified by faulty instrument indication or during instrument calibrations that will be performed during the PBAPS, Unit 3 refueling outage 10. In examining the potential for a time-based failure mechanism that could cause significant degradation of the containment structure, we concluded that the risk, if any, of such a mechanism is small since the design requirements and fabrication specifications established for the containment structure are in themselves adequate to ensure containment leak tight integrity.

Based on the above evaluation, we have concluded that the proposed TS change will have a negligible impact on the consequences of any accident previously evaluated.

Although this review concluded that the risk of undetected primary containment degradation is not increased, the Individual Plan Examination (IPE) for PBAPS, Units 2 and 3, was also reviewed in order to access the impact of exceeding the primary containment allowable leakage rate, if a non-mechanistic activity type (i.e., time-based) failure were to occur. The IPE included an evaluation of the effect of various containment leakage sizes under different scenarios. The IPE results showed that a containment leakage rate of 35% wt/day would represent less than a 5% increase in risk to the public of being exposed to radiation. This evaluation was based on a study performed by Oak Ridge National Laboratory for light water reactors that evaluated the impact of leakage rates on public risk. As stated earlier, the current value of La for PBAPS, Unit 3, is 0.5% wt/day, which is significantly less than the 35% wt/day discussed in the IPE evaluation.

Therefore, the proposed TS change involving a one-time extension of the Type A test interval and performing the Type A test after the second appendix J 10-year service period will not involve an increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change is an increase of a surveillance test interval and does not make any physical or operational changes to existing plant systems or components. Primary containment acts as an accident mitigator not initiator. Therefore, the possibility of a different type of accident than any previously evaluated or the possibility of a different type of equipment malfunction is not introduced.

Therefore, the proposed TS change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed TS change does not involve a significant reduction in a margin of safety.

The total primary containment leakage rate ensures that the total containment leakage volume will not exceed the value assumed in the safety analyses at the peak accident pressure. As an added conservatism, the measured overall leakage rate is further limited to less than or equal to 0.75 La during performance of periodic tests to account for possible degradation of the containment leakage barriers between leakage tests. There is the potential that containment degradation could remain undetected during the proposed 24 month surveillance interval extension and result in the containment leakage exceeding this allowable value assumed in safety analysis. A review of the history of the PBAPS, Unit 3 CILRT results was performed to evaluate the risk of activity-based and time-based degradation. This review has determined that the potential for a time-based and activity-based failure is minimal. The PBAPS LLRT program would identify most types of penetration leakage. The LLRT program involves measurement of leakage from Type B and Type C primary containment penetrations as defined in 10 CFR part 50, appendix J.

The 10 CFR part 50, appendix J, Type B tests are intended to detect local leaks and to measure leakage across pressure containing or leakage-limiting boundaries other than valves, such as containment penetrations incorporating resilient seals, gaskets, expansion bellows, flexible seal assemblies, door operating mechanism penetrations that are part of the containment system, doors, and hatches. 10 CFR part 50, appendix J, Type C testing is intended to measure reactor system primary containment isolation valve leakage rates. The frequency of the Type B and Type C testing is not being altered by the proposed TS change.

Therefore, we have concluded that the proposed extended test interval would not result in a non-detectable PBAPS, Unit 3 primary containment leakage rate in excess of the allowable value (i.e., 0.5% wt/day) established by the TS and 10 CFR part 50, appendix J.

Therefore, the proposed TS change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Attorney for Licensee: J.W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101.

NRC Project Director: John F. Stolz.

Public Service Electric & Gas Company, Docket No. 50–272, Salem Nuclear Generating Station, Unit No. 1, Salem County, New Jersey

Date of amendment request: April 4, 1995.

Description of amendment request: The amendment would provide a one-time interval extension for the Type A test required by 10 CFR part 50, appendix J. The extension would allow the test to be conducted during the thirteenth refueling outage, rather than the twelfth refueling outage.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change will provide a one-time exemption from 10 CFR part 50, appendix J Section III.D.1(a) leak rate test schedule requirement. This change will allow for a one-time test interval for Type A Integrated Leak Rate Tests (ILRTs) of 65+/−10 months.

Leak rate testing is not an initiating event in any accident, therefore, this proposed change does not involve a significant increase in the probability of a previously evaluated accident.

Type A tests are capable of detecting both local leak paths and gross containment failure paths. The history at Salem Generating Station Unit 1 (SGS1) demonstrates that Type B and C Local Leak Rate Tests (LLRTs) have consistently detected any excessive local leakages. SGS1 has passed all of its ILRTs with significant margin.

Administrtive controls govern the maintenance and testing of containment penetrations such that the probability of excessive penetration leakage due to improper maintenance or valve misalignment is very low. Following any maintenance that could affect the leakage characteristics of any containment penetration, an LLRT is performed to ensure acceptable leakage levels. Following any LLRT on a containment isolation valve, an independent valve alignment check is performed before declaring the penetration OPERABLE. Therefore, Type A testing is not necessary to ensure acceptable leakage rates through containment penetrations.

While Type A testing is not necessary to ensure acceptable leakage rates through

containment penetrations, Type A testing is necessary to demonstrate that there are no gross containment failures. Structural failure of the containment is considered to be a very unlikely event, and in fact, since SGS1 has been in operation, it has never failed a Type A ILRT. Therefore, a one-time exemption increasing the interval for performing an ILRT does not result in a significant decrease in the confidence in the leak tightness of the containment structure.

Therefore, this proposed change does not result in a significant increase of the probability or consequences of any previously evaluated accident.

2. Will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change allows a one-time interval of 65+/−10 months for the next ILRT. The method of performing the test is not changed. No new accident modes are created by extending the testing intervals. No safety-related equipment or safety functions are altered as a result of this change. A one-time extension of the ILRT test interval has no influence on, nor does it contribute in any way to, the possibility of a new or different kind of accident or malfunction from those previously analyzed.

3. Will not involve a significant reduction in a margin of safety.

The purpose of the existing schedule of ILRTs is to ensure that the release of radioactive materials will be restricted to those leak paths and leak rates assumed in accident analyses. The relaxed schedule for ILRTs does not allow for relaxation of Type B and C LLRTs. Therefore, methods for detecting local containment leak paths and leak rates are unaffected by this proposed change. Given that the test history for ILRTs shows no failure during plant life, a one-time increase of the test interval does not lead to a significant probability of creating a new leakage path or increased leakage rates, and the margin of safety inherent in existing accident analyses is maintained. Therefore, this change does not involve a significant reduction kin the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW, Washington, DC 20005–3502.

NRC Project Director: John F. Stolz.

Public Service Electric & Gas Company, Docket No. 50–272, Salem Nuclear Generating Station, Unit No. 1, Salem County, New Jersey

Date of amendment request: May 4, 1995.

Description of amendment request: The amendment would authorize a one-time extension for the Type A test (overall integrated containment leakage rate) that is required by 10 CFR part 50, appendix J. The current Technical Specification would require that this test be conducted by July 7, 1995. The amendment would allow this test to be conducted by November 30, 1995.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change involves no hardware changes, no changes to the operation of any systems or components, and no changes to existing structures. This change is temporary, allowing a one-time extension of a specific surveillance requirement for cycle 12 to allow surveillance testing to coincide with the twelfth refueling outage. The proposed surveillance interval extension is short and will not result in any significant reduction in structural reliability nor will the extension affect the ability of the structure in performing its intended functions. to preclude the possibility of an undetected containment failure/leakage at a valve or penetration seal, Type ''B'' and ''C'' tests will continue to be performed as required by the Technical Specifications. Therefore, this change will not involve a significant increase in the probability or consequences of any accidents previously evaluated.

2. Will not create the possibility of a new or different kind of accident from any previously evaluated.

Extending the surveillance interval for the performance of specific testing will not create the possibility of any new or different kinds of accident. No changes are required to any system configurations, plant equipment, or analyses. Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will not involve a significant reduction in a margin of safety.

The proposed change will not alter any assumptions, initial conditions, or results of any accident analyses. The safety limits assumed in the accident analyses and the design function of the structure required to mitigate the consequences of any postulated accidents will not be changed since only the surveillance interval is being extended. Historical performance indicates a high degree of reliability, and surveillance testing performed during continued plant operation will verify that Salem 1 will remain within analyzed limits. Consequently, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Project Director: John F. Stolz.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: April 18, 1995.

Description of amendment request: The amendments would delete the quarterly leak rate test for the containment pressure-vacuum relief valves which is presently required because of the valves' resilient seat material. The resilient valve seat material will be replaced with a hard seat (metal to metal) design. The valves would still remain in the 10 CFR part 50 appendix J, Type C leak rate test program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The containment pressure/vacuum relief valves are normally closed, and are used under administrative control to maintain containment internal pressure within −1.5 psig and +0.3 psig, as required by SGS Technical Specifications. The pressure/vacuum relief valves are relied upon for containment isolation and automatically close on high containment pressure or high containment atmosphere radioactivity. The pressure/vacuum relief system does not affect the probability of any previously evaluated accident.

The containment isolation function of the pressure/vacuum relief valves limits the consequences of a radiological release inside containment (i.e., Loss of Coolant Accident). The proposed changes to eliminate quarterly pressure drop (leak rate) testing would not increase the consequences of any previously evaluated accident. The valve flow characteristics and closure time requirements are not affected. The valves will continue to be subject to the Type C leak rate test criteria of 10 CFR part 50, appendix J. The deletion of the augmented quarterly test requirement is justified by replacement of the resilient

valve seat material (which has a history of degradation and loss of leaktightness) with a metal to metal seating design.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Eliminating quarterly leak rate testing based on improved valve design would not result in any new or different kind of accident. The valves would continue to perform the containment isolation function consistent with the plant safety analyses, and would not adversely affect the initiation or progression of any accident sequence.

(3) Do not involve a significant reduction in a margin of safety.

This proposal involves replacement of the existing pressure/vacuum relief valves, which have resilient seating material, with valves using a hard seat (metal to metal design). Based on the improved design and operating experience of the replacement valves, augmented quarterly leak rate testing is no longer necessary or appropriate to verify leaktightness of the valves. Periodic leak rate testing will continue to be performed in accordance with 10 CFR part 450, appendix J. The pressure/vacuum relief valves will continue to maintain their containment isolation capability such that no margin of safety is affected by the proposed changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079.

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502.

NRC Project Director: John F. Stolz.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plants, Units 1 and 2, Hamilton County, Tennessee

Date of amendment request: May 3, 1995 (TS 93–09).

Descripton of amendment request: The proposed change would revise the implementation schedule for Amendment Nos. 182 and 174 from that stated in the amendments when they were approved by the Commission by letter dated May 24, 1994. As issued, the amendments reflected the licensee's plans to implement the changes for both units during the Unit 2 Cycle 6 refueling outage. However, by letter dated August 19, 1994, the licensee requested that implementation be delayed to 1995. This request was granted by Amendment Nos. 188 and 180 for Units 1 and 2 respectively by letter dated October 17, 1994. By letter dated May 3, 1995, the licensee informed the staff that evaluation of the design changes have concluded that significant safety risks would be involved with modification activities associated with installation. Therefore, the licensee has requested that implementation of the amendment be changed to specify that the amendment will be implemented along with the related plant modifications, without specifying the date when the modifications would be performed. No changes to the technical specification pages other than those approved when the amendments were issued are needed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has determined that the no significant hazards consideration exists. This analysis was provided in the original submittal for the amendment from the licensee dated October 1, 1993, and was used in the preparation of the amendments. The licensee has determined that this analysis remains valid for the proposed revision and that the changes do not constitute a significant hazard. The staff previously issued the proposed finding in the **Federal Register** (59 FR 4947 and 59 FR 47182) and there were no public comments on the finding. This analysis is reproduced as follows:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed revision supports the implementation of design logic and setpoint changes to the loss-of-power relaying. This relaying is designed to ensure adequate voltage is available to safety-related loads in order to enhance their operability and support accident mitigation functions and to provide for auxiliary feedwater (AFW) pump starts. The design changes alter relay logic and delete unnecessary relaying, but do not change the diesel generator (D/G) start and load-shedding actuations that result from loss-of-power conditions. Therefore, no new actuations or functions have been created; and because the existing and proposed functions provide for accident mitigation considerations that are not the source of an accident, the probability of an accident is not increased. The deletion of the 6.9-kilovolt shutdown board normal-feeder undervoltage relays actually reduces the potential for inadvertent shutdown board blackouts as a result of short-duration voltage transients or instrument failures.

The setpoints and time delays for loss-of-power functions have been modified based on the guidelines developed by the Electrical Distribution System Clearinghouse as evaluated and determined through detailed analysis by TVA. This design is documented in TVA Calculations SQN–EEB–MS–TI06–0008, 27DAT, and DS–1–2 and is available for NRC review at the SQN site. The assigned values are conservative settings that will ensure adequate voltage is supplied to safety-related loads for accident mitigation and safety functions under normal, degraded, and loss-of-offsite-power voltage conditions with appropriate time delays to prevent damage to electrical loads and minimize premature or unnecessary actuations. The identification of loss-of-voltage conditions is enhanced by the design changes to ensure the timely sequencing of loads onto the D/G and the initiation of AFW pump starts for accident mitigation. Because there are no reductions in safety functions resulting from the design logic, setpoint, and time-delay changes to the loss-of-power instrumentation and offsite dose levels for postulated accidents will not be increased, the consequences of an accident are not increased.

The applicable mode addition, TS 3.0.4 exclusion deletion, and response time measurement clarification incorporated in the proposed change do not affect plant functions. These changes reflect the requirements that SQN has been maintaining and serve to clarify the requirements to provide consistency of application and easier understanding. The AFW footnote addition and bases revision only clarify operability conditions that are consistent with the plant design for the AFW pump and loss-of-power instrumentation. Because there are no changes to plant functions or operations, these revisions have no impact on accident probabilities or consequences.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

As described above, the loss-of-power instrumentation ensures adequate voltage to safety-related loads by initiating D/G starts and load shedding and provides for AFW pump starting, but is not considered to be the source of an accident. Although the design logic, setpoint, and time-delay actuation criteria have changed, the output functions to various plant systems that actuate for load shedding and D/G starts remain the same. Therefore, actuation criteria have been affected, but not safety functions, and the TVA evaluation has confirmed that the new design enhances the ability to maintain adequate voltage to support safety functions. Since safety functions have not changed and the new loss-of-power instrumentation design continues to support operability of safety-related equipment, no new or different accident is created.

The applicable mode addition, TS 3.0.4 exclusion deletion, and response time measurement clarification, as well as the AFW operability clarifications, do not affect plant functions and will not create a new accident.

3. Involve a significant reduction in a margin of safety.

The proposed loss-of-power TS changes support design logic, setpoint, and time-delay requirements that have been verified by

TVA analysis to provide acceptable voltage levels for safety-related components. In determining the acceptability of these voltage levels, the minimum voltage for operation as well as detrimental component heating resulting from sustained degraded-voltage conditions were considered. This design ensures that safety-related loads will be available and operable for normal and accident plant conditions. The applicable mode addition, TS 3.0.4 exclusion deletion, response time measurement clarification, and AFW operability clarifications provide enhancements to TS requirements and do not affect plant functions. Therefore, no safety functions are reduced by these changes and there is no reduction in the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: April 28, 1995.

Description of amendment request: The proposed amendment would extend for one more operating cycle an exception to Limiting Condition for Operation (LCO) 3.0.4 as it applies to the Technical Specification for the main steam isolation valve leakage control system. The existing LCO 3.0.4 exception was issued by Amendment 63 to the Operating License, and will expire upon completion of the fifty cycle of plant operation. The extension is proposed for the duration of the sixth cycle of operation to permit completion of activities necessary to implement the most appropriate permanent resolution for the issue of secondary containment bypass leakage through the main steam line drains.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below.

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This License Amendment application proposes an extension for one operating cycle of the exception to Limiting Condition for Operation for Operation (LCO) 3.0.4 as it applies to the Technical Specification for the MSIV [main steam isolation valve] Leakage Control system. This extension is proposed for the duration of the sixth cycle of PNPP (Perry Nuclear Power Plant) operation, to permit completion of activities necessary to implement the most appropriate permanent resolution for the issue of secondary containment bypass leakage through the Main Steam Line drains. During the sixth cycle, the drains will remain in their current configuration, which seals off the bypass leakage path. The sealed drain path results in a temporary inoperability of the Inboard MSIV Leakage control system (MSIV–LCS) subsystem when the plant is operated below 50% power, due to condensate build-up in the bottom of the steam lines between the MSIVs. The requested 3.0.4 exception is necessary to permit plant startups with this temporary inoperability, for the duration of the sixth operating cycle.

The probability of occurrence of a previously evaluated accident is not affected by the proposed extension of the LCO 3.0.4 exception since no change to the plant or to the manner in which the plant is operated is involved. The existing plant configuration will be maintained for another operating cycle, and possible concerns resulting from that configuration have been analyzed. The extra weight of the water pooled between the MSIVs was analyzed with respect to piping supports and seismic considerations and was found to be acceptable, and any condensate that is carried past the outboard MSIVs will be drained to the condenser by drain connections downstream of the outboard MSIVs before it can reach the turbine. The temporary inoperability of the Inboard MSIV–LCS when below 50% power has no impact on accident initiation probability, since LCS does not serve to prevent accidents, but is only used in mitigating the consequences of Loss of Coolant Accidents that have already occurred.

The consequences of an accident are not significantly increased in that the Outboard MSIV–LCS will be available to perform the MSIV–LCS function by mitigating the consequences of a Loss of Coolant Accident (LOCA) during the temporary period in which the Inboard MSIV–LCS is unavailable. Any condensate that is carried past the outboard MSIVs will be drained to the condenser by drain connections downstream of the outboard MSIVs; therefore no impairment of the Outboard MSIV–LCS will result from condensed water.

The Action statement for one inoperable LCS subsystem remains the same, and the limits plant operation to the previously established 30-day Allowable Outage Time. The Action required if both the subsystems of MSIV–LCS were to become inoperable also remains the same. The MSIV function of isolating the Main Stream Lines is also unaffected by the existing plant configuration, since MSIV performance will not be affected by the existence of accumulated water in the bottom of the steam lines between the MSIVs during the plant operation below 50% power. Therefore, if necessary, the Main Steam Lines will be isloated, and leakage past the MSIVs will be routed for filtration as in the design-basis radiological analyses, and the consequences of previously evaluated accidents will remain unaffected.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to permit inoperability of the Inboard MSIV–LCS during periods of startup and power ascension to 50% RTP (rated thermal power) and during shutdown below 50% RTP does not create the possibility of a new or different kind of accident from any previously evaluated. The Inboard MSIV–LCS is only credited during a Recirculation Line Break LOCA wherein Reactor Coolant System depressurization occurs. The temporary unavailability of the Inboard MSIV–LCS. the amendment to the Technical Specifications is an administrative change that does not involve any change to the current plant design or methods of operation. No new plant equipment failure modes or accident initiators are introduced by the extension of the LCO 3.0.4 exception.

3. The proposed change does not involve a significant reduction in a margin of safety.

The response to the Recirculation Line Break LOCA will not be significantly affected since the Outboard MSIV–LCS can be assumed to be available. Allowing entry into Operational Conditions 1, 2 and 3 while utilizing the existing Action statement does not significantly reduce the margin of safety since the duration of time allowed for remaining in that Action statement is not increased. The proposed change will have no adverse impact on the reactor coolant system pressure boundary nor will any other system protective boundary or safety limit be affected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Gail H. Marcus.

The Cleveland Electric Illuminating Company, Centerior Service Company, Duquesne Light Company, Ohio Edison Company, Pennsylvania Power Company, Toledo Edison Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit No. 1, Lake County, Ohio

Date of amendment request: May 1, 1995.

Description of amendment request: The proposed amendment would eliminate selected response time testing requirements, and incorporate guidance provided by Generic Letter 93–08, ''Relocation of Technical Specification Tables of Instrument Response Time Limits.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

For those proposed changes dealing with the elimination of selected response time test requirements, the purpose of the proposed Technical Specification change is to eliminate response time testing requirements for selected components in the Reactor Protection System, Isolation system, and Emergency Core Cooling System. The BWR Owners' Group has completed an evaluation which demonstrates that the response time testing is redundant to other Technical Specification required testing. These other tests, in conjunction with actions taken in response to NRC Bulletin 90–01, ''Loss of Fill-Oil in Transmitters Manufactured by Rosemount,'' and Supplement 1, are sufficient to identify failure modes or degradations in instrument response time and ensure operation of the associated systems within acceptable limits. There are no known failure modes that can be detected by response time testing that cannot also be detected by the other required Technical Specification testing. This evaluation was documented in NEDO–32291, ''System Analyses for Elimination of Selected Response Time Testing Requirements,'' January 1994, and the letter from T. Green to P. Loeser dated April 15, 1994 which were approved by an NRC Safety Evaluation dated December 28, 1994. The applicability of this evaluation to the Perry Nuclear Power Plant (PNPP) has been confirmed. In addition, PNPP will complete the additional actions identified in the NRC staff's Safety Evaluation of NEDO–32291.

Because of the continued application of other existing Technical Specification required tests such as channel calibrations, channel checks, channel functional tests, and logic system functional tests, the response times of these systems will be maintained within the acceptance limits assumed in plant safety analysis and required for successful mitigation of an initiating event. The proposed Technical Specification changes do not affect the capability of the associated systems to perform their intended function within their required response time, nor do the proposed changes themselves affect the operation of any equipment. As a result the proposed changes dealing with elimination of selected response time tests do not involve a significant increase in the probability or the consequences of an accident previously evaluated.

For those changes dealing with moving the surveillance requirement for ECCS RESPONSE TIME testing from the instrumentation section to the system section of the Technical Specifications, no change in testing requirements (other than the elimination of the instrument loops implemented as part of the NEDO–32291 changes) has been introduced. The relaxation in Applicability does not increase the probability or the consequences of an accident previously evaluated, since there are no design basis events during OPERATIONAL CONDITION 4 and 5 where ECCS systems are relied upon.

For those changes dealing with relocation of the response time limits from Technical Specification Tables and into the Updated Safety Analysis Report (USAR), the proposed changes are administrative in nature in that the test requirements and time limits are still requirements, but the placement of the limits have been relocated from the Technical Specifications and into the USAR. Therefore these changes do not involve a significant increase in the probability or the consequences of an accident previously evaluated.

2. The changes do not create the possibility of a new or different kind of accident from any previously evaluated.

None of the proposed Technical Specification changes affect the capability of the associated systems to perform their intended function within the acceptance limits assumed in plant safety analyses and required for successful mitigation of an initiating event. The proposed changes also do not change the manner in which any plant equipment is operated. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The changes do not involve a significant reduction in the margin of safety.

The current Technical Specification response times are based on the maximum allowable value assumed in the plant safety analyses. These analyses conservatively establish the margin of safety. As described above, the proposed Technical Specification changes do not affect the capability of the associated systems to perform their intended function within the allowed response time used as the basis for the plant safety analyses. Plant and system response to an initiating event will remain in compliance within the assumptions of the safety analyses, and therefore the margin of safety is not affected.

Although not explicitly evaluated, the proposed Technical Specification changes dealing with response time testing elimination will provide an improvement to plant safety and operation by reducing the time safety systems are unavailable, reducing safety system actuation, reducing plant shutdown risk, limiting radiation exposure to plant personnel, and eliminating the diversion of key personnel to conduct unnecessary testing. Therefore, the proposed changes do not result in a significant reduction in a margin of safety, and may result in an overall increase in the margin of safety.

The changes dealing with relocation of the time response limits from the Technical Specifications to the USAR is an administrative change that does not affect either the requirements to perform response time testing or the limits associated with the response time tests. Future changes to the limits will be controlled by 10 CFR 50.59. Therefore, this portion of the change does not result in a significant decrease in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Gail H. Marcus.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: April 26, 1995.

Description of amendment request: the proposed amendment would revise Technical Specification (TS) Surveillance Requirements 3/4.7.6 and associated Bases to reduce the upper limit on the control room filtration subsystem flow rate. It would also adopt ASTM D–3803–1989 as the laboratory testing standard for control room filtration and control building pressurization charcoal absorber.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed revision does not involve a significant hazards consideration because operation of Callaway Plant with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

Overall protection system performance will remain within the bounds of the accident analysis documented in FSAR Chapter 15 * * * since no hardware changes are proposed.

The Control Room Emergency Ventilation System (CREVS) will continue to function in a manner consistent with the above analysis assumptions and the plant design basis. There will be no degradation in the performance of or an increase in the number of challenges to equipment assumed to function during an accident situation.

These Technical Specification revisions do not involve any hardware changes nor do they affect the probability of any event initiators. The change to the control room filtration flow rate is consistent with the original licensing basis and will ensure an average atmosphere residence time of greater than or equal to 0.25 sec. There will be no change to ESF (engineered safety feature) actuation setpoints or accident mitigation capabilities. The laboratory testing will demonstrate the required absorber performance after a design basis LOCA (loss-of-coolant accident).

The control room dose analyses assume a total flow rate through the control room filtration units that is less than the proposed upper limit. As such, there will be no changes required to the control room dose analyses.

Based on the above, these Technical Specification changes will not increase the probability or consequences of an accident or malfunction.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed above, there are no hardware changes associated with these Technical Specification revisions nor are there any changes in the method by which any safety-related plant system performs its safety function.

Revisions to the Surveillance Requirements for the CREVS will ensure that the control room does analysis assumptions made in support of OL (operating license) Amendment No. 96 are valid. Changes to the control room filtration unit flow rate are more limiting than that currently specified and have already been implemented by resetting the open limit switches on the respective units' outlet dampers. This flow rate is consistent with the design basis for the filtration units as originally licensed.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures are introduced as a result of these changes. There will be no adverse effect or challenges imposed on any safety-related system as a result of these changes. Therefore, the possibility of a new or different kind of accident is not created.

(3) Involve a significant reduction in a margin of safety.

There will be no margin reduction since these changes are in the conservative direction and have already been approved by NRC via the approval of OL Amendment No. 96. The reduced upper bound flow rate for the control room filtration units is consistent with their design basis and will maintain an average atmosphere residence time greater than or equal to 0.25 sec under both clean and dirty filter conditions. The new charcoal absorber sample laboratory testing protocol is more stringent than the current testing practice and more accurately demonstrates the required performance after a design basis LOCA.

There will be no effect on the manner in which safety limits or limiting safety system settings are determined nor will there be any effect on those plant systems, necessary to assure the accomplishment of protection functions. There will no impact on the overpower limit, DNBR (departure from nucleate boiling ratio) limits, F_Q, F[delta]H, LOCA PCT (peak cladding temperature), peak local power density, or any other margin of safety. These changes will ensure that the criteria of GDC 19 are met.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW, Washington, DC 20037.

NRC Project Director: Gail H. Marcus.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks. Manitowoc County, Wisconsin

Date of amendment request: April 17, 1995.

Description of amendment request: The proposed amendment would modify Technical Specification (TS) Section 15.6.2, ''Organization,'' and TS Section 15.6.3, ''Facility Staff Qualifications.'' The training requirements for the Operations Manager and other staff would be changed to provide staffing flexibility.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated; create the possibility of a new or different kind of accident from any previously evaluated; or create the possibility of a new or different kind of accident from any previously evaluated.

1. The proposed change affects only an administrative control, which was based on industry guidance in ANSI N18.1–1971, that recommended the Operations Manager hold an SRO (senior reactor operator) license. This administrative control is being updated to meet the current guidance in ANSI/ANS 3.1–1987.

2. The proposed qualification requirements for the Operations Manager ensures the individual filling the position meets knowledge levels equivalent to the present requirements. It also ensures that individuals responsible for directing the activities of licensed operators continue to hold SRO licenses as required by 10 CFR 50.54(l).

3. Since the proposed specifications ensure regulatory requirements are met and ensures knowledge levels equivalent to existing license requirements for operations management, the proposed changes are considered administrative. The design of plant systems and equipment is not being altered. Plant operations will continue to be directed and performed by qualified personnel. Therefore, the probability or consequences of accidents previously evaluated are not affected, a new or different type of accident is not created, nor is a margin of safety reduced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Gail H. Marcus.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Power Plant, Unit Nos. 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: April 27, 1995.

Description of amendment request: The proposed amendment would modify Technical Specification (TS) Table 15.3.5–1, ''Engineered Safety Features Initiation Instrument Setting Limits,'' and TS Table 15.35–3, ''Engineered Safety Features.'' Setting limits would be modified and references would be changed. The bases for TS Section 15.3.5, ''Instrumentation System,'' would also be changed to be consistent with the TS changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of this facility under the proposed Technical Specifications will not create a significant increase in the probability or consequences of an accident previously evaluated.

The probabilities of accidents previously evaluated are based on the probability of initiating events for these accidents.

Initiating events for accidents previously evaluated for Point Beach include: control rod withdrawal and drops, CVCS (chemical and volume control system) malfunction (Boron Dilution), startup of an inactive reactor coolant loop, reduction in feedwater enthalpy, excessive load increase, losses of reactor coolant flow, loss of external electrical load, loss of normal feedwater, loss of all AC power to the auxiliaries, turbine overspeed, fuel handling accidents, accidental releases of water liquid or gas, steam generator tube rupture, steam pipe rupture, control rod ejection, and primary coolant system ruptures.

This license amendment request proposes to correct some minor errors, include appropriate operability requirements for the modification to include the safety injection signal in the time delay for the 4.16KV degraded voltage protection logic, slightly lower the degraded voltage setting limit, change the format of the 4.16 KV degraded voltage and loss of voltage setting limits, and change the time delays associated with the 4.16 KV degraded voltage, 4.16 KV loss of voltage and 480 V loss of voltage protection functions.

These proposed changes do not cause an increase in the probabilities of any accidents previously evaluated because these changes will not cause an increase in the probability of any initiating events for accidents previously evaluated. In particular, these proposed changes affect time delay and format of the setting limits associated with the 4.16 KV degraded voltage, 4.16 KV loss of voltage, and 480 V loss of voltage protection functions. These are protection functions and do not cause accidents.

The consequences of the accidents previously evaluated in the PBNP FSAR (Final Safety Analysis Report) are determined by the results of analyses that are based on initial conditions of the plant, the type of accident, transient response of the plant, and the operation and failure of equipment and systems. The changes proposed in this license amendment request provide appropriate limiting conditions for operation, action settlements, allowable outage times, setting limits, and time delays for the Point Beach Nuclear Plant Technical Specifications for the 4.16 KV degraded voltage, 4.16 KV loss of voltage, and 480 V loss voltage protection functions.

The proposed changes affect functions that are required to ensure the proper operation of engineered features equipment. The proposed changes do not increase the probability of failure of this equipment or its ability to operate as required for the accidents previously evaluated in the PBNP FSAR.

The modifications to reduce the time delay limit associated with the 4.16 KV degraded voltage protection function when the degraded voltage condition is coincident with a safety injection signal, have been designed and installed in accordance with the requirements for PBNP. The probability of occurrence of degraded voltage conditions at PBNP has not been increased. The modifications and proposed Technical Specifications will ensure the proper operation of ESF (engineered safety feature) equipment. These changes do not increase the possibility of failure of this equipment.

Therefore, this proposed license amendment does not affect the consequences of any accident previously evaluated in the Point Beach Nuclear Plant FSAR, because the factors that are used to determine the consequences of accidents are not being changed.

2. Operation of this facility under the proposed Technical Specifications change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

New or different kinds of accidents can only be created by new or different accident initiators or sequences. New and different types of accidents (different from those that were originally analyzed for Point Beach) have been evaluated and incorporated into the licensing basis for Point Beach Nuclear Plant. Examples of different accidents that have been incorporated into the Point Beach Licensing basis include anticipated transients without scram and station blackout.

The changes proposed by this license amendment request do not create any new or different accident initiators or sequences because these changes to the 4.16 KV degraded voltage, 4.16 KV loss of voltage, and 480 V loss of voltage protection functions will not cause failures of equipment or accident sequences different than the accidents previously evaluated. Therefore, these modifications and proposed Technical Specification changes do not create the possibility of an accident of a different type than any previously evaluated in the Point Beach FSAR.

3. Operation of this facility under the proposed Technical Specifications change will not create a significant reduction in a margin of safety.

The margins of safety for Point Beach are based on the design and operation of the reactor and containment and the safety systems that provide their protection.

The changes proposed by this license amendment request provide the appropriate setting limits and time delays for the 4.16 KV degraded voltage, 4.16 KV loss of voltage, and 480 V loss of voltage protection functions. This ensures that the safety systems that protect the reactor and containment will operate as required. The design and operation of the reactor and containment are not affected by these proposed changes. Therefore, the margins of safety for Point Beach are not being reduced because the design and operation of the reactor and containment are not being changed and the safety systems that provide their protection that are being changed are being modified in accordance with the applicable design and installation requirements for Point Beach Nuclear Plant.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Gail H. Marcus.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: April 21, 1995.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) 3.1.2.4, ''Charging Pumps-Operating,'' by adding a note that indicates that the provisions of TS 3.0.4 and 4.0.4 are not applicable for entry into MODE 4 from MODE 5.

Date of publication individual notice in **Federal Register:** May 2, 1995 (60 FR 21558).

Expiration date of individual notice: June 1, 1995.

Local Public Document Room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, Connecticut 06360.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act

of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. 1, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: August 19, 1994, as supplemented November 3, 1994.

Brief description of amendment: The amendment requests a line-item improvement to the Radiological Effluent Technical Specifications pursuant to the guidance of Generic Letter 89–01 and incorporates the requirements of revised 10 CFR part 20 and 10 CFR 50.36a.

Date of issuance: May 1, 1995.

Effective date: May 1, 1994.

Amendment No.: 58.

Facility Operating License No. NPF–63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** October 12, 1994 (60 FR 51617) The Commission's related evaluation of the amendment, and NRC's response to the public comments received, are contained in a Safety Evaluation dated May 1, 1995.

No significant hazards consideration comments received: Yes.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Duke Power Company, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of application of amendments: November 22, 1994, as supplemented by letters dated January 30, March 2, March 13, and May 2, 1995.

Brief description of amendments: The amendments revise Technical Specification 3.8 to establish restricted loading patterns and associated burnup criteria for placing fuel in the Oconee spent fule pools. In addition, the Design Features sections associated with the reactor and fuel storage are also revised.

Date of issuance: May 3, 1995.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: 209, 209, and 206.

Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 15, 1995 (60 FR 8746); Re-Noticed March 29, 1995 (60 FR 16185).

The May 2, 1995, letter did not change the scope of the November 22, 1994, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 3, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691.

Duquesne Light Company, et al., Docket No. 50–412, Beaver Valley Power Station, Unit 2, Shippingport, Pennsylvania

Date of application for amendment: April 10, 1995, as supplemented April 12, 1995, and April 20, 1995.

Brief description of amendment: This amendment revises Technical Specification 4.6.2.2.d to delete the reference to the specific test acceptance criteria for the Containment Recirculation Spray Pumps and replace the specific test acceptance criteria with reference to the developed head required by the plant's safety analysis. In addition, the 18-month test frequency would be replaced with the test frequency requirements specified in the IST Program. The current footnote (1) pertaining to the performance of recirculation spray pump 2RSS*P21A would be deleted.

Date of issuance: May 3, 1995.

Effective date: May 3, 1995.

Amendment No.: 68.

Facility Operating License No. NPF–73: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes (60 FR 19417, April 18, 1995) That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by May 18, 1995, but indicated that if the Commission makes a final no significant hazards consideration any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment, finding of exigent circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 3, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Entergy Operations, Inc., Docket Nos. 50–313 and 50–368, Arkansas Nuclear One, Unit Nos. 1 and 2, Pope County, Arkansas

Date of amendment request: August 30, 1994 as supplemented January 19, 1995.

Brief description of amendments: The amendments changed requirements related to the site perimeter security system.

Date of issuance: April 28, 1995.

Effective date: April 28, 1995.

Amendment Nos.: Unit 1—Amendment No. 180; Unit 2—Amendment No. 161

Facility Operating License Nos. DPR–51 and NPF–6: Amendments revised the licenses.

Date of initial notice in **Federal Register:** April 12, 1995 (60 FR 18625).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 28, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: December 14, 1993, as supplemented by letter dated March 3, 1995.

Brief description of amendment: The amendment changed the Appendix A Technical Specifications by removing the reactor vessel material specimen withdrawal schedule and by updating the reactor coolant system pressure-temperature (P–T) curves.

Date of issuance: May 8, 1995.

Effective date: May 8, 1995.

Amendment No.: 106.

Facility Operating License No. NPF–38.: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 19, 1994 (59 FR 2867).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: October 20, 1994.

Brief description of amendments: These amendments change the definition of ''core alteration'' to exclude the movement of items not associated with reactivity. The second change involves allowing the personnel airlock (PAL) doors to remain open during fuel movement and core alterations under certain conditions.

Date of issuance: May 11, 1995.

Effective date: May 11, 1995.

Amendment Nos.: 173 and 167.

Facility Operating License No. DPR–31 and DPR–41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 9, 1994 (59 FR 55869).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 11, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

GPU Nuclear Corporation, et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: February 28, 1995.

Brief description of amendment: The amendment revises Technical Specification (TS) Section 6.5.1.12 to delete the requirement to render determinations in writing with regard to whether or not activities listed in TS Sections 6.5.1.2 and 6.5.1.5 constitute an unreviewed safety question. These activities are changes to Appendix A Technical Specifications (6.5.1.2) and investigations of all violations of the TSs (6.5.1.5). This change is consistent with NUREG–1433 Standard Technical Specifications General Electric Plants, BWR/4 Revision 0, dated September 28, 1992.

Date of issuance: May 1, 1995.

Effective date: May 1, 1995.

Amendment No.: 180.

Facility Operating License No. DPR–16.: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 29, 1995 (60 FR 16188).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated May 1, 1995.

No significant hazards consideration comments received: Yes.

By letter dated April 5, 1995, Mr. Kent W. Tosch, of the State of New Jersey Department of Environmental Protection commented that they concur with GPU Nuclear's rationale that these unreviewed safety question reviews serve no value since these activities specifically require NRC review and approval. The State official had no other comments.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Dos. 50–498 and 50–499, South Texas Projects, Units 1 and 2, Matagorda County, Texas

Date of amendment request: February 15, 1995.

Brief description of amendment: The amendment modified Technical Specification 4.6.2.3.a.2 (and associated Bases) to reflect the reactor containment fan cooler flow rate assumed in the accident analysis and to specify that this flow is provided by the component cooling water system.

Date of issuance: May 2, 1995.

Effective date: May 2, 1995, to be implemented within 30 days.

Amendment Nos.: Unit 1—Amendment No. 74; Unit 2—Amendment No. 63.

Facility Operating License Nos. NPF–76 AND NPF–80. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 29, 1995 (60 FR 16189) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 2, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J.M. Hodge Learning Center, 911 Boling Highway, Wharton, TX 77488.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50–461, Clinton Power Station, Unit No. 1. DeWitt County, Illinois

Date of application for amendment: February 10, 1995.

Brief description of amendment: The amendment changes Technical Specification 3.3.2.1, ''Control Rod Block Instrumentation,'' to revise two surveillance requirements and their associated notes for the Rod Withdrawal Limiter mode of the Rod Pattern Control System. The changes are consistent with the Clinton Power Station Technical Specifications prior to implementation of the improved Technical Specifications (Amendment No. 95) and eliminates the potential for unnecessary power reductions.

Date of issuance: May 2, 1995.

Effective date: May 2, 1995.

Amendment No.: 100.

Facility Operating License No. NPF–62. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register: March 29, 1995. (60 FR 16190)**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 2, 1995.

No significant hazard consideration comments received: No.

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Niagara Mohawk Power Corporation, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of application for amendment: July 22, 1993, as supplemented February 4, August 23, September 16, October 6, and December 2, 1994, and January 3, January 9, March 8, and April 10, 1995.

Brief description of amendment: The amendment modified Facility Operating License No. NPF–69 and the NMP–2 TSs to authorize an increase in the maximum power level of NMP–2 from 3323 megawatts thermal (MW_t) to 3467 MW_t. The amendment also approves changes to the TSs to implement uprated power operation.

Date of issuance: April 28, 1995.

Effective date: As of the date of issuance to be implemented prior to restart from refueling outage number 4.

Amendment No.: 66.

Facility Operating License No. NPF–69: Amendment revises the Technical Specifications and modifies Facility Operating License No. NPF–69.

Date of initial notice in **Federal Register: March 16, 1994 (59 FR 12360). The letters dated February 4, August 23, September 16, October 6, and December 2, 1994, and January 3, January 9, March 8, and April 10, 1995, provided clarifying information that did not change the initial proposed no significant hazards consideration determination.**

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 28, 1995.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: October 18, 1994, a supplemented February 21, 1995.

Brief description of amendment: The amendment changes Surveillance Requirement 4.6.1.2.a (Overall Integrated Containment Leakage Rate Tests) by revising the surveillance interval for Type A tests from 40 plus or minus 10 months to approximately equal intervals during each 10-year inservice period. The amendment also removes a note that expired upon completion of Cycle II refueling outage.

Date of issuance: May 3, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 187.

Facility Operating License No. DPR–65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 29, 1995 (60 FR 16191).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated may 3, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resource Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London turnpike, Norwich, CT 06360.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit no. 3, New London County, Connecticut

Date of application for amendment: December 23, 1994.

Brief description of amendment: The amendment changes the acceptance criteria for the peak transient generator voltage from 4784 volts to 5000 volts during full load rejection tests of the diesel generator (DG), and also deletes the 10-year surveillance requirement to perform a 110% pressure test of the DG fuel oil system.

Date of issuance: May 1, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 110.

Facility Operating License No. NPF–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 15, 1995 (60 FR 8751).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 1, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Northeast Nuclear Energy Company, et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: September 28, 1994.

Brief description of amendment: The amendment revises Surveillance Requirement 4.6.1.2.a of the Technical Specification to eliminate the requirement to perform Type A tests on an interval of 40 plus or minus 10 months while reiterating the Appendix J requirement that the Type A tests be performed three times, at approximately equal intervals, during each 10 year service period. In addition, a footnote is added which states that the third Type A test will be performed during the sixth refueling outage. This reflects an exemption to Appendix J which separates the third Type A test from the 10 year inservice inspection.

Date of issuance: May 8, 1995.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 111.

Facility Operating License No. NPF–49. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 23, 1994 (59 FR 60384)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 8, 1995.

No significant hazards consideration comments received: NO.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, Thames Valley Campus, 574 New London Turnpike, Norwich, CT 06360.

Public Service Electric & Gas Company, Docket Nos. 50–272 and 50–311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of application for amendment: August 19, 1994, as supplemented March 15, 1995.

Brief description of amendment: The amendments add a new action statement to Technical Specification 3.1.3.2.1., ''Position Indication Systems—Operating''.

Date of issuance: May 3, 1995.

Effective date: May 3, 1995.

Amendment No.: 166 and 148.

Facility Operating License Nos. DPR–70 and DPR–75. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 12, 1994 (59 FR 51626) The March 15, 1995 supplement provided clarifying information that did not change the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated may 3, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: March 19, 1993; superseded May 16, 1994; superseded February 10, 1995; supplemented February 17, 1995 (TS 93–04).

Brief description of amendment: The amendments clarify the Limiting

Conditions for Operation applicable to the dual function of the containment vacuum relief isolation lines by specifying the actions that would be required should one or more of the vacuum relief isolation lines by specifying the actions that would be required should one or more of the vacuum relief lines be incapable of performing the containment isolation function or incapable of performing the vacuum relief function.

Date of issuance: April 28, 1995.

Effective date: April 28, 1995.

Amendment No.: 197 and 188.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register:** May 12, 1994 (58 FR 28060); renoticed June 22, 1994 (59 FR 32237), and March 29, 1995 (60 FR 16202).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 28, 1995.

No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendment: November 15, 1994; superseded March 7, 1995 (TS 94–12).

Brief description of amendments: The amendments remove the frequencies specified in the Technical Specifications for performing audits and delete the requirement to perform the Radiological Emergency Plan, Physical Security Plan, and Safeguard Contingency Plan reviews.

Date of issuance: May 10, 1995.

Effective date: May 10, 1995.

Amendment No.: 198 and 189.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the technical specifications.

Date of initial notice in **Federal Register:** December 21, 1994 (59 FR 65823); renoticed March 29, 1995 (60 FR 16203)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 10, 1995.

No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: January 30, 1995.

Brief description of amendment: This amendment revises Technical Specification (TS) 4.6.1.2.a, ''Containment Systems, Containment Leakage, Surveillance Requirements (SR)'' and Bases 3/4.6, ''Containment Systems,'' to state that Type A tests for overall integrated containment leakage rate testing shall be conducted in accordance with the requirements specified in appendix J of 10 CFR part 50, as modified by NRC-approved exemptions. Additionally, TS SR 4.6.1.2.a.

Date of issuance: May 3, 1995.

Effective date: May 3, 1995.

Amendment No.: 198.

Facility Operating License No. NPF–3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 15, 1995 (60 FR 14028).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 3, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: July 8, 1993, as supplemented by letters dated July 12, 1994, and March 7, 1995.

Brief description of amendments: The amendments revise the NA–1&2 Technical Specifications by deleting the requirements to periodically review certain administrative and technical procedures.

Date of issuance: May 1, 1995.

Effective date: May 1, 1995.

Amendment Nos.: 190 and 171.

Facility Operating License Nos. NPF–4 and NPF–7: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 4, 1993 (58 FR 41518).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 1, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339; North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: December 27, 1993, as supplemented September 6, 1994, and March 7, 1995.

Brief description of amendments: The amendments revise the NA–1&2 Technical Specifications regarding the review responsibilities of the Station Nuclear Safety and Operating Committee and the Management Safety Review Committee.

Date of issuance: May 2, 1995.

Effective date: May 2, 1995.

Amendment Nos.: 191 and 172.

Facility Operating License Nos. NPF–4 and NPF–7: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 16, 1994 (59 FR 7700).

The September 6, 1994, and March 7, 1995 submittals provided additional information only, and did not change the staff's initial proposed determination of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 2, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendments: June 28, 1991.

Brief description of amendments: These amendments incorporate operability and surveillance requirements for power-operated relief valves to conform with Generic Letter 90–06.

Date of issuance: May 2, 1995.

Effective date: May 2, 1995.

Amendment Nos.: 198 and 198.

Facility Operating License Nos. DPR–32 and DPR–37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 2, 1991 (56 FR 49929).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 2, 1995.

No significant hazards consideration comments received: No.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Notice of Issuance of Amendments to Facility Operating Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By June 23, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the

petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at lest one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (*Project Director*): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Commonwealth Edison Company, Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station, Units 1 and 2

Date of application for amendments: April 24, 1995.

Brief description of amendments: the amendments change the Technical Specifications by modifying the surveillance testing periodicity requirements of the automatic actuation logic of engineered safeguards equipment.

Date of issuance: May 5, 1995.

Effective date: May 5, 1995.

Amendment Nos.: 162 and 150.

Facility Operating Licenses Nos. DPR–39 and DPR–48. The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendments, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 5, 1995.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690.

Local Public Document Room location: Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085.

NRC Project Director: Robert A. Capra.

Baltimore Gas and Electric Company, Docket No. 50–317, Calvert Cliffs Nuclear Power Pant, Unit No. 1, Calvert County, Maryland

Date of application for amendment: April 28, 1995.

Brief description of amendment: The amendment revises the control room emergency ventilation system TS 3.7.6.1, Limiting Condition For Operation. The revision extends the one-time increase in the allowed outage time for loss of emergency power only, from the 30 days previously approved, to 45 days. This extension is necessary to allow time to repair the Number 21 emergency diesel generator which failed its operability tests subsequent to modifications which have been recently completed.

Date of issuance: May 2, 1995.

Effective date: As of the date of issuance to be implemented upon receipt.

Amendment No.: 205.

Facility Operating License No. DPR–53: Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, consultation with the State, and final determination of no significant hazards consideration are continued in a Safety Evaluation dated May 2, 1995.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Attorney for licensee: Jay E. Silbert, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N. Street, NW., Washington, DC 20037.

NRC Project Director: Ledyard B. Marsh.

Dated at Rockville, MD, this 17th day of May, 1995.

For the Nuclear Regulatory Commission,

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–12538 Filed 5–22–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35723; File No. SR–Amex–95–08]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Membership Structure and Requirements and the Exchange's Gratuity Fund

May 16, 1995.

I. Introduction

On February 17, 1995, the American Stock Exchange, Inc. (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its Construction, Rules and Membership Lease Plan to allow organizations, including certain pension plans, to own memberships legally as well as beneficially and to allow individuals and organizations to own multiple memberships. The Exchange also is proposing to revise its Gratuity Fund to reflect the above changes, to increase the death benefit paid thereunder, and to allow options principal members to participate therein.

The proposed rule change was published for comment in Securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange Act Release No. 35411 (Feb. 22, 1995), 60 FR 11153 (March 1, 1995). One comment was received on the proposal.[3] This order approves the proposed rule change.

II. Overview of Proposal

A. Changes to Amex Membership Structures

At present, the Exchange's Constitution and Rules require that each member[4] be a natural person who must either own a membership (*i.e.*, a seat on the Exchange) outright, lease a seat from its owner, or hold the seat under a so-called a-b-c agreement.[5] Further, a membership must also be held in the name of a natural person and no individual is permitted to hold more than one seat. A member organization may own beneficially one or more memberships in which case the member organization would be required to designate an individual (typically an officer, general partner, or employee of the member organization) nominally to own the seat on the member organization's behalf.

The Exchange proposes to eliminate the requirements that memberships be individually owned and instead permit both individuals and organizations to own multiple memberships.

Organizations that own memberships could either lease their seats directly to lessees or designate individuals as nominees to ''operate'' their seat.[6] Similarly, individuals who own memberships, but who do not ''operate'' their seats, would also be able to lease their seats or designate nominees to operate the seats as their employees. As a general matter, such nominees and lessees would be deemed to be member of the Exchange and would be subject to all of the obligations and privileges of membership under the Exchange Constitution and Rules except that they would not participate in any distribution of Exchange assets or funds upon liquidation, dissolution, or winding up of the affairs of the Exchange and ultimate control of the membership would rest with its owner.[7]

The proposal also would permit certain pension plans (generally comprised of trusts or custodian accounts, including Keoghs and Individual Retirement Accounts) to acquire ownership of one or more seats for investment purposes and either to lease their seats or to designate nominees to operate them.[8] This option would only be available to a pension plan where the sponsor of the plan is a member organization and at least fifty percent (50%) of the pension trust beneficiaries are active members and/or floor employees of the member organization or the sponsor is an ''active'' member.[9] The trust itself would be the owner of the membership and the trustee would have to become an approved person.[10]

The proposal would make a number of additional changes to the Exchange's Rules and Constitutions to effectuate the foregoing changes. These changes are described below.

Subordination of Membership to Trading Losses and Debts

Currently, in the case of a leased seat, the lessor's liability to the Exchange for his or her lessee's trading losses and other debts incurred in connection with membership is limited to the value of the leased seat. In the case of a seat held pursuant to an a-b-c agreement, however, a member organization is responsible for all such losses and debts incurred by the a-b-c seatholder, even if such obligations exceed the value of the seat used by the a-b-c- seatholder. These requirements would remain the same under the proposal with nominees being treated in the same manner as a-b-c seatholders currently are.

Claims Procedures

Under the current rules, all transfers of Exchange memberships must be posted on the Exchange Bulletin Board and published in the Exchange's Weekly Bulletin for at least seven days.[11] During this time, other members and member organizations must file their claims against the seat with the Exchange. These transfer and claims procedures would continue to be utilized under the new membership structure. In addition, the designation of a nominee by a seat owner would be deemed to be a transfer to which the posting and claims procedures would apply.

Fees

Currently, the Exchange imposes an initiation fee of $2,500 for both a regular and options principal membership when a seat is sold. The initiation fee on a nominal transfer (*i.e.*, within a firm pursuant to an a-b-c agreement) is $2,500 for a regular membership but only $500 for an options principal membership. When a membership is transferred to a lessee, the initiation fee is $1,500 for a regular membership but again only $500 for an options principal membership.

The proposal would retain the initiation fee of $2,500 for both regular and options principal memberships when a seat is sold but would impose an initiation fee of $1,500 on all regular and options principal memberships for all nominal transfers and transfers by lease.[12] For the ninety-day period after these changes become effective, no initiation fee would be charged for changes in membership ownership, except for bona fide sales and bona fide changes in lessees or nominees. A $250 processing fee, however, would be imposed on any transfer where no initiation fee is charged.

Voting

Currently, members subject to an a-b-c agreement sign an irrevocable proxy authorizing their member organizations to vote on their behalf. The organization then designates an individual (typically an employee) who is authorized to vote

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[3] Letter from Sam G. Marx on behalf of S.G. Marx & Associates Inc., a member of the Amex, to Brandon Becker, Director, Division of Market Regulation, DEC, dated May 15, 1995 (''Marx Letter'').

[4] Both regular members and options principal member are exchange members as defined in Section 3(a)(3) of the Act. A regular member may effect transactions in both equities and derivatives on the floor of the Exchange. In contrast, an options principal member is limited to trading as principal in options and other derivative products. Currently, the Amex has 661 regular and 203 options principal memberships outstanding.

[5] An a-b-c agreement is an arrangement between the individual who nominally owns a seat and the member organization with which such individual is associated and which is the beneficial owner of the membership. Upon termination of the a-b-c agreement, the individual must either (1) retain the membership and pay the member organization the amount necessary to purchase another membership; (2) sell the membership with the proceeds paid over to the member organization; or (3) transfer the membership to a person designated by the member organization.

[6] The a-b-c agreement would be replaced with another document to authorize the nominee to act on the member organization's behalf in all Exchange matters and to provide that the member organization is responsible for all the nominee's Exchange-related obligations. Member organizations, however, would be permitted to continue to utilize their existing a-b-c agreements for so long as the respective individual members remain in their seats.

[7] As discussed below, the owner would retain the right to vote seats held by nominees and certain lessees.

[8] The Exchange has been advised that the prohibited transaction provisions of the Employee Retirement Income Security Act and the Internal Revenue Code would preclude a member from being the nominee or lessee of the seat owned by his or her own pension trust.

[9] ''Active'' is defined as meeting all Exchange requirements to be active on the Floor, including passing any necessary examinations and being registered as, or associated with, a broker-dealer. See Para. 9176 of the Amex Guide (''Membership Requirements and Admissions Procedures'').

[10] See Art. I, Sec. 3(g) of the Amex Construction for a definition of the term ''Approved Person.''

[11] This includes nominal transfers, *i.e.*, a transfer of membership within an organization.

[12] Except for the above described changes in initiation fees and, as hereafter described, changes in the Exchange's Gratuity Fund assessment, the proposal would not effect any change to annual dues, floor facility fees, or other fees.

on behalf of the membership. In the case of leased seats, the vote is negotiable between the lessor and lessee, provided that if no specification is made, the lessee would vote the seat.

Under the new rules, organizations and individuals would be entitled to vote all of the memberships that they own (and do not lease out). Organizations would have to designate an individual who is authorized to vote on their behalf. With respect to leased seats, the vote would be negotiable between lessor and lessee.

B. Changes to the Gratuity Fund

Currently, the Exchange Gratuity Fund (''Fund'') provides that only families of regular members may receive the death benefit of $100,000. To fund the death benefit, each regular member contributes $152 to the Fund upon becoming a participant in the Fund and is assessed $152 each time a participant dies (subject to reduction in the first assessment of the year to reflect income earned by the Fund in the previous year). In the case of leased seats, the lessor, but not the lessee, participates in the Fund.

The proposal would exclude from participation in the Fund certain lessors who currently participate in the Fund and would include as participants, in addition to regular members, options principal members and both options principal and regular member lessees and nominees. Under the new rules, lessors would only participate to the extent they were previously active [13] on the Floor for at least two continuous years [14] commencing on or after June 10, 1993,[15] or they were regular members or regular member lessors prior to such date. Accordingly, the proposal would exclude lessors who were not regular members or regular member lessors as of June 10, 1993 from participation in the Fund, notwithstanding that such lessors currently are participants in the Fund.

An individual who satisfies the above active requirement but who then ceases to be a member, lessor, lessee, or nominee, nevertheless, once again would become a participant in the Fund upon becoming a lessor so long as no more than five years has elapsed since such individual last participated in the Fund. To the extent more than five years has elapsed, however, the individual then would have to be active for another two continuous years to participate in the Fund as a lessor.

Individuals who currently own options principal memberships would have a one-time opportunity to ''opt-in'' or ''opt-out'' of the Fund. A decision to ''opt-out'' would be irrevocable for the rest of the person's life (unless the person subsequently buys a regular membership.[16] Options principal members who ''opt-in'' would also be grandfathered for purposes of the active requirement. Current lessees (both regular and options principal membership) would also have the right to ''opt-out'' of the Fund, but such decisions would be effective only for the duration of their current lease, and new leases would require lessee participation in the Fund. Lease renewals by the same two parties would not be considered to be new leases. Any new options principal member seat owner (other than an individual owner who previously chose to ''opt-out'' irrevocably) would be covered by the new rules.

Further, under the proposal, the death benefit would be increased to $125,000. The Exchange, however, would phase-in the full death benefit over a four-year period. The proposed ''phase-in'' schedule would be applied only on a prospective basis and would not be applicable to persons who are already participants or who become participants by virtue of the proposed amendments (*e.g.*, options principal members and lessees) regardless of whether such persons have been participants or members for four years or more.[17] For participants subject to the phase-in, the full death benefit would be based upon the length of time such person had been a participant, according to the following schedule: [18]

- Less than one year—$25,000 (20% ''phase-in'')
- One year or more but less than two years—$50,000 (40% ''phase-in'')
- Two years or more but less than three years—$75,000 (60% ''phase-in'')
- Three years or more but less than four years—$100,000 (80% ''phase-in'')
- Four years or more—$125,000 (100% ''phase-in'')

If a participant who has not completed the phase-in period ceases to be a participant for a continuous period of less than five years, and thereafter again becomes a participant, he or she would be able to aggregate his or her periods of participation for purposes of the ''phase-in.'' For example, if an individual is a participant for one year and then ceases to be a participant for four years, and thereafter again becomes a participant, such individual would be credited with the amount of time previously spent as a participant for purposes of the ''phase-in'' schedule. If a participant ceases to be such for a period of five years or more, however, and thereafter becomes a participant, he or she would not be able to aggregate his or her prior periods of participation for purposes of the ''phase-in'' described above. That is, the ''phase-in'' schedule would be applied to such participant as if he or she had never been a participant in the past.

Under the proposal, the amount of each assessment would fluctuate because the number of participants in the Fund would vary based on who is eligible at the time of a member's death and because the extent to which participants were ''phased-in'' would vary. As is currently the case, participants would have to pay both an initial assessment upon becoming a participant and an assessment each time an eligible individual dies. The first group of persons to become newly eligible for the Fund upon the adoption of these changes would be required to pay an initial assessment of $300.[19] Thereafter, persons who become eligible would be required to pay an initial assessment based on the number of participants in the Fund at that time.

Each membership would pay at least one assessment.[20] In some instances, there would be one assessment per seat and on others two (*i.e.*, when both lessor and lessee are qualified). Fund assessments would be based in all cases on the amount of the benefit payable and would be the same for all

[13] See note 9, *supra*, for a definition of the term ''active.''

[14] A person would not have to maintain the same status for the two-year period. For example, a person who is a lessee for one and a half years and who then buys the seat (or another seat) and remains on it for at least six months would satisfy the active requirement. In addition, a person may be off the seat for up to sixty consecutive days during the two-year period without being considered to have interrupted that period.

[15] June 10, 1993 was the date that the Exchange's Board approved these proposals.

[16] If that person subsequently buys a different options principal membership, the decision to ''opt-out'' would apply to that seat as well.

[17] An existing options principal member or lessee who ''opts-out'' of the Fund and on some other basis later becomes eligible, however, would become subject to the phase-in at that time.

[18] This schedule is similar to that used by the New York Stock Exchange (''NYSE'') regarding payments from its Gratuity Fund. See Art. XV, Sec. 3 of the NYSE Constitution.

[19] The Fund currently maintains a reserve of $200,000, the amount necessary to pay two death benefits. If the benefit is increased, the reserve would be increased accordingly. The initial assessment of $300 on new participants is necessary to allow the Fund to achieve this goal.

[20] The only exception to this would be in the case of an individual who is both the independent owner of and the user of a particular options principal membership and who ''opts-out'' of the Fund under the transition provisions. For such a person's ''opt-out'' to be able to have any practical effect, his or her options principal seat would have to be exempt entirely from the obligation to pay assessments to the Fund for so long as he or she remains the owner and user of that seat.

memberships assessed, regardless of whether or to what extent a particular participant being assessed has already ''phased-in'' to full eligibility.

No member's beneficiaries would be entitled to receive more than one Fund benefit upon the member's death by virtue of the deceased member's status as both lessor and lessee, or for any other reason. The family of a member who owns multiple memberships would be able to collect only one benefit. A member would be eligible on only one seat, and must designate that seat to the Exchange. The lessees or nominees of the other seats, of course, would be eligible on those seats. The trustees of the Fund would have the authority to resolve disputes with respect to a person's eligibility to participate in the Fund.[21]

III. Comments Received by the Commission

The Commission received one comment letter from S.G. Marx & Associates Inc., a member of the Exchange.[22] The commenter alleged that the Exchange had delayed approval of the membership of one of the company's nominees until after June 10, 1993 so that, under the proposal, such member would not be able to participate in the Gratuity Fund. Additionally, the commenter objected to the fact that, under the proposal, certain of its memberships would be required to pay an assessment to the Fund, notwithstanding that no one connected with such membership would be a participant in the Fund.

IV. Discussion

The Commission believes that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of Sections 6(b) (2), (4), and (5) of the Act.[23] Section 6(b)(2) of the Act requires the rules of an exchange, subject to the provisions of Section 6(c) of the Act,[24] to ensure that any registered broker or dealer or natural person associated with a registered broker or dealer may become a member of the exchange. Section 6(b)(4) of the Act requires the rules of an exchange to provide for the equitable allocation of reasonable dues and fees among members and persons using exchange facilities. Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

A. Changes to Amex Membership Structure

Currently, the Exchange allows organizations to own beneficially multiple memberships. As beneficial owners, member organizations are able to vote the memberships that they own (and do not lease out) and otherwise enjoy all of the financial advantages of membership. Because they are only beneficial holders, however, member organizations must designate individuals nominally to own the seat on their behalf.

The Commission believes that the amendment of the Exchange's rules to permit organizations to own memberships directly and to permit individuals and organizations to own multiple memberships should not result in any substantive changes in the operation of the Exchange. Such changes should have the beneficial effect of allowing member organizations to simplify the arrangements that they have made with regard to their ownership and operation of Exchange memberships. Moreover, several other exchanges permit organizations, as well as individuals, to own memberships and the Commission is not aware of any problems that have resulted from such membership structure.[25]

The Commission believes that the amendments to the Exchange's rules to permit certain pension plans to acquire ownership of one or more seats for investment purposes and either to lease their seats or to designate nominees to operate them reasonably balances the Exchange's interest in having the flexibility to approve entities with new organizational structures for Exchange membership with the regulatory interests in protecting the financial and structural integrity of the Exchange. In the event such an entity designated a nominee to operate its seat, the pension plan would have to be a broker or dealer registered with the Commission pursuant to the Act, because this is a prerequisite to becoming an Exchange member organization,[26] and would be subject to all other membership approval requirements generally applicable to member organizations. If the pension plan leased the seat, the plan would be subject to all approval requirements generally applicable to lessors. In either event, the pension plan's trustee would have to be approved as an approved person under the Constitution and Rules of the Exchange.

The Commission believes that the changes to the Exchange's fees relating to the transfer of memberships are consistent with Section 6(b)(4) of the Act, which requires the equitable allocation of reasonable dues and fees among members and persons using exchange facilities. The proposed amendments would make two changes to the Exchange's fee structure. The first change would equalize the initiation fee for nominal transfers, (*i.e.*, intra-firm) and transfers by lease of regular memberships and options principal memberships. The Commission believes that such equalization is proper in view of the Exchange's representation that the administrative expenses attributable to the two types of membership are identical. The second change would impose a substantially reduced processing fee for changes in membership during the ninety-day period following the effective date of these changes, except for bona fide sales and bona fide changes in leases or nominees. The Commission believes that it is appropriate for the Exchange to offer a reduced fee for a limited period of time as a means of encouraging members to take advantage of the new alternatives available in structuring ownership of Amex seats.

B. Gratuity Fund

The Commission is unaware of any reason why the Exchange's proposal to expand participation in the Gratuity Fund to all active Exchange members and to increase the death benefit provided thereunder should not be approved. The Exchange's proposal, however, also limits participation in the Fund. Specifically, the proposal excludes inactive members from participation in the Fund, except for such members who have been active on the Exchange for at least two years or who were participants in the Fund (or options principal members) as of the date the Exchange's Board approved such proposal. As a result, the proposal would exclude lessors who are currently participants in the Fund but who were

[21] Options principal members, lessees, and nominees also would be eligible to become trustees of the Fund. For further discussion of rules governing trustees of the Fund, *see* Art. IX of the Amex Constitution.

[22] See Marx Letter, *supra,* note 3.

[23] 15 U.S.C. 78f(b)(2), (4), (5).

[24] 15 U.S.C. 78f(c). Section 6(c) of the Act allows an exchange to deny membership to certain classes of persons.

[25] See *e.g.*, Art. I, Sec. 1.1 and Sec. 2.2 of the Constitution of the Chicago Board Options Exchange, Inc. and Art. II, Sec. 1 of the Constitution of the Chicago Stock Exchange, Incorporated.

[26] See Art. IV., Sec. 2(d) of the Amex Constitution.

not regular members or regular member lessors as of June 10, 1993 from participation in the Fund. With regard to these participants, the Commission notes that, before they become lessors, the Exchange gave them written notice that they would no longer be participants in the Fund if this proposal were approved. Further, the Commission previously published this rule change for comment and received no adverse comments regarding this disparate treatment.[27] Additionally, the Commission believes that it is reasonable for the Exchange to make a distinction in treatment between participants who became inactive members of the Exchange with the expectation that they would be participants in the Fund and members who had no such expectation.[28] Similarly, the Commission is unaware of any reason why the Exchange's proposal to phase-in the full death benefit over a four year period for all new members should not be approved.[29]

Finally, the Commission believes that the changes in the Fund assessment are consistent with Section 6(b)(4) of the Act, which requires the equitable allocation of reasonable dues and fees among members and persons using exchange facilities.[30] The Commission notes that, with one exception, the assessment applies equally to all members[31] and that there is always at least one individual connected to each membership who has the right to participate in the Fund.

IV. Conclusion

In summary, the Commission believes that the changes relating to the Exchange's membership structure will provide the Exchange and its members with increased flexibility without causing any substantive changes in the operation of the Exchange. Further, the Commission believes that the changes relating to the Exchange's Gratuity Fund should provide enhanced benefits to a wider range of members.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[32] that the proposed rule change (SR–Amex–95–08) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[33]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12517 Filed 5–22–95; 8:45 am]

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[27] See Securities Exchange Act Release No. 35411 (Feb. 22, 1995), 60 FR 11153 (March 1, 1995).

[28] In approving this provision, the Commission does not mean to dismiss the comment of S.G. Marx and Associates Inc. regarding the Exchange's alleged delay in the approval of the membership of one of the company's nominees until after June 10, 1993 so that, under the proposal, such member would not be able to participate in the Gratuity Fund. The Commission believes that such allegation speaks to whether the Exchange applied its rules in a fair and impartial manner, rather that the advisability of the provision in question and on that basis is approving this order. The Commission emphasizes that such approval should not be interpreted as addressing the merits of the above allegation in any manner.

[29] As discussed *supra* at note 17 and the accompanying text, the phase-in schedule does not apply to persons who are already participants or who become participants by virtue of these amendments.

[30] The Commission notes that the proposed change, when combined with the provision that allows current lessees to ''opt-out'' of participation in the Fund, could result in a membership being required to pay an assessment to the Fund, notwithstanding that no one connected with such membership would be a participant in the Fund. The comment letter of S.G. Marx & Associates Inc. discussed this situation. See Marx Letter, *supra,* note 3.

[31] See note 20, *supra,* for a discussion of the exception regarding certain options principal memberships.

[32] 15 U.S.C. 78s(b)(2).

[33] 17 CFR 200.30–3(a)(12).

[Release No. 34–35711; File No. SR–CHX–95–12]

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Notice of Filing of Proposed Rule Change Regarding Depository Eligibility Requirements

May 12, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on April 26, 1995, the Chicago Stock Exchange, Incorporated (''CHX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by CHX. The Commission is publishing this notice to solicit comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CHX proposes to amend Rule 7 of Article XXVIII of its rules relating to the depository eligibility requirements for issuers that desire to list their securities on CHX.

[1] 15 U.S.C. 78s(b)(1) (1988).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the proposed rule change, CHX will adopt a uniform depository eligibility rule for issuers that desire to list their securities on the CHX. The uniform rule has been developed by the Legal and Regulatory Subgroup of the U.S. Working Committee of the Group of Thirty in coordination with each of the national securities exchange and the National Association of Securities Dealers (''NASD''). It is anticipated that each national securities exchange and the NASD will file rule changes proposing adoption of depository eligibility standards substantially similar to CHX's proposed rule and will seek to make such changes effective contemporaneously with the effective date of the transition from a five-day (''T+5'') to a three-day (''T+3'') settlement cycle. The transition is set to occur June 7, 19995.[3]

The proposed rule change will require issuers to ensure that securities to be listed on CHX have been included in the file of eligible issues maintained by a securities depository registered as a clearing agency under Section 17A of the Securities Exchange Act of 1934.[4] This requirement will not apply to a security if the terms of such security cannot be reasonably modified to meet the criteria for depository eligibility at all securities depositories.

The proposed rule change sets forth additional requirements that must be met before a security will be deemed to be ''depository eligible,'' as such term is used in Article XXII, Rule 37 of the CHX rules (''Book-Entry Settlement

[2] The Commission has modified the language in these sections.

[3] Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (adoption of Rule 15c6–1) and 34952 (November 9, 1994), 59 FR 59137 (change of effective date of Rule 15c6–1 from June 1, 1995 to June 7, 1995).

[4] 15 U.S.C. 78q–1 (1988).

Requirements'').[5] The proposed rule specifies different requirements for depository eligibility depending upon whether a new issue is distributed by an underwriting syndicate before or after the date a securities depository system is available for monitoring repurchases of the distributed shares by syndicate members (''flipping tracking system'').

Currently, a flipping tracking system is being developed that will include a securities depository service that (i) can be activated upon the request of the managing underwriter for a period of time that the managing underwriter specifies, (ii) in certain circumstances, will require the delivering participant to provide to the depository information sufficient to identify the seller of such shares as a precondition to the processing of book-entry delivery instructions for distributed shares, and (iii) will report to the managing underwriter the identity of any other syndicate member or selling group member whose customer(s) sold distributed shares (but will not report to the managing underwriter the identity of such customer[s]) and, in certain circumstances, will report to such syndicate member or selling group member the identity of such customer(s). Prior to the availability of a flipping tracking system, the managing underwriter may delay the date a security is deemed ''depository eligible'' for up to three months after trading has commenced in the security. After the availability of a flipping tracking system, a new issue will be deemed to be depository eligible upon commencement of trading on CHX.

The proposed rule change is consistent with Section 6(b)(5) of the Act[6] in that it is designed to promote just and equitable principals of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

CHX believes that no burden will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments have been solicited or received. CHX will notify the Commission of any written comments received by CHX.

[5] Pursuant to Article XXII, Rule 37 of the CHX rules, trades by a member in depository eligible securities generally must be settled by book-entry through a securities depository.

[6] 15 U.S.C. 78f(b)(5) (1988).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which CHX consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

CHX has requested accelerated effectiveness of the proposed rule change in order that the rule can become effective on June 7, 1995.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of CHX. All submissions should refer to the file number SR–CHX–95–12 and should be submitted by June 13, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12518 Filed 5–22–95; 8:45 am]

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[7] *Supra* note 3 and accompanying text.

[8] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–35722; File No. SR–CHX–95–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to the Automatic Execution of Limit Orders

May 16, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 31, 1995, the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change and on May 5, 1995, filed Amendment No. 1 to the proposed rule change,[1] as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reactivate its system enhancement relating to the automatic execution of limit orders[2] with one modification. This system enhancement was originally approved by the Commission as a one-year pilot program. See Securities Exchange Act Release No. 32124 (Apr. 13, 1993), 58 FR 21325 (approving File No. SR–MSE–92–03) (''Pilot Approval Order''). The original one-year pilot program lapsed on April 15, 1994 without the Exchange filing for an extension or permanent approval.[3]

The proposed automatic execution feature (''Auto-Ex'') will operate by comparing the size of the CHX-entered limit order against the amount of stock ahead of that order in the primary market when the issue is trading in the primary market at the limit price.[4] The

[1] See letter from Craig Long, Foley & Lardner, to Glen Barrentine, Senior Counsel, SEC, dated May 4, 1995. In Amendment No. 1, the Exchange requests that the rule filing be approved on a one-year pilot basis and makes certain clarifying changes to the text of Item I.

[2] A limit order is an order to buy or sell a stated amount of a security at a specified price or at a better price.

[3] In the Pilot Approval Order, the Commission described its concerns with the program and requested that the Exchange submit a report detailing the use of the pilot. The Exchange, however, did not submit the report because specialists on the Exchange made little or no use of the pilot program. Telephone conversation between Craig Long, Foley & Lardner, and Jennifer Choi, SEC, on April 17, 1995.

[4] In the original pilot program,the Auto-Ex was to operate by comparing the size of CHX-entered limit

comparison will be made against the primary market quotation size. The Auto-Ex system will keep track of all prints in the primary market and will automatically execute the limit order once sufficient size prints in the primary market.[5] As additional limit orders at the same price are received by the specialist, comparisons will be made and entered based upon the shares ahead of those limit orders at the time of receipt, including shares ahead on the CHX. The Auto-Ex feature will not permit a limit order to be filled out of sequence. Limit orders will not be compared for Auto-Ex purposes until such time as the limit price equals the bid or offer, as the case may be, quoted in the primary market for the first time.[6]

The Auto-Ex feature will execute limit orders in accordance with existing CHX rules.[7] Auto-Ex will be available for all dually traded issues; however, specialists will be permitted to choose Auto-Ex on an issue by issue basis.[8] Generally, the Exchange believes that specialists will choose to use Auto-Ex for issues that, based on experience, have demonstrated reliable and accurate quotes in the primary market.[9] Limit orders not subject to Auto-Ex will be ''flagged'' with a prompt to alert the specialist that a fill may be due. The proposal to establish an Auto-Ex feature applies only to non-marketable limit orders.[10] It is not applicable to marketable limit orders or to market orders.[11] The text of the proposed rule change is as follows [new text is italicized]:

Article XX

Rule 37(b)

(12) Automatic Execution of Limit Orders. A Specialist may voluntarily choose to activate a feature of MAX that automatically executes limit orders on a specialist's book at the limit price after both of the following conditions are met: (1) the issue is trading at the limit price in the primary market, and (2) enough transactions in the issue are executed in the primary market at prices which are equal to the limit price of the order such that the size associated with such transactions are, in aggregate, equal to or greater than the sum of (a) the size displayed at the limit price in the primary market when the limit order was entered on the specialist's book, plus (b) the size of the limit order. This feature can be activated on a stock-by-stock basis only. Once activated, it must remain activated for a minimum of five trading days and can only be deactivated on a certain day (to be determined by the Exchange from time to time) each month.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to reactivate the CHX's Auto-Ex feature for limit orders in order to further automate the CHX's trading floor functions and in order to improve the CHX's performance in filling limit orders.

By providing for automatic execution of limit orders in accordance with existing Exchange rules, the CHX is eliminating the need for the manual operation required of specialists in determining when and to what extent limit orders are due fills based on primary market prints. The manual effort expended by specialists in filling limit orders that are entitled to primary market protection is often time-consuming and can result in errors, particularly when there is heavy trading volume. The present proposal will, therefore, directly benefit customers because it will result in more timely fills while eliminating errors resulting from manual execution

The Auto-Ex feature will not change or amend any CHX trading rules, nor will it cause or allow limit orders to be filled under different parameters than under existing rules. Auto-Ex will only automate the manner in which limit orders are filled. The CHX will continue to monitor specialist execution of limit orders through the Market Regulation/ Surveillance Department. In addition, CHX specialists will continue to be responsible for their books to the same degree as they are now under the manual execution system for limit orders.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices and to perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

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order against the amount of stock ahead of that order in the ''consolidated market'' rather than in the primary market. This change is the one modification made by the Exchange to the original pilot program. Telephone conversation with Craig Long, Foley & Lardner, and Jennifer Choi, SEC, on April 17, 1995.

[5] For example, assume a CHX specialist receives an agency limit order to buy 2,000 shares of ABC at ½. The primary market quotation is ½ bid, ¾ offered, 5,000 shares bid and 5,000 shares offered, meaning there are 5,000 shares ahead of the CHX order. The Auto-Ex system will automatically execute the entire CHX limit order after 7,000 shares print at ½ in the primary market. However, when more than 5,000 but less than 7,000 shares print at ½ in the primary market, the order will be flagged with a flashing prompt to alert the specialist that the order may be due at least a partial fill. See CHX Article XX, Rule 37(a) governing primary market protection of certain limit orders.

[6] For example, if the primary market quotation is ¼ bid, ½ offered, 4,000 shares bid and 4,000 shares offered, and a CHX specialist receives a limit order to buy 2,000 shares for ⅛, that limit order will not be compared against the amount of stock ahead of the order in the primary market until such time as the ¼ bid is exhausted and the ⅛ bid becomes the best bid. At that time, the size that is disseminated with the ⅛ bid is the size against which the limit order is compared for Auto-Ex purposes.

[7] The CHX specialist will be the contra-side of all Auto-Ex trades. See Securities Exchange Act Release No. 32124 (Apr. 13, 1993), 58 FR 21325 (approving File No. SR–MSE–92–03).

[8] The CHX will limit a specialist's ability to activate and then deactivate Auto-Ex regularly by: (1) Only permitting a specialist to deactivate Auto-Ex on a certain day each month and (2) requiring that issues remain on Auto-Ex for a minimum of five trading days.

[9] Telephone conversation between Craig Long, Foley & Lardner, and Glen Barrentine and Jennifer Choi, SEC, on May 3, 1995.

[10] Under CHX Rule 37(b)(7), specialists generally are required to automatically execute nonmarketable agency limit orders at the limit price when there is a price penetration of the limit price in the primary market.

[11] A limit order is called ''marketable'' when the prevailing best offer (bid) is equal to or less (greater) than the limit buy (sell) order price. CHX Rule 37(b)(7) provides for the automatic execution at the BBO or better of all limit orders that are marketable when entered into the Exchange's automated execution system (''MAX'') provided that such orders are of a certain size and are eligible for execution under CHX rule 37(a).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–92–11 and should be submitted by June 13, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12519 Filed 5–22–95; 8:45 am]

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[Release No. 34–35720; File No. SR–DTC–95–06]

Self-Regulatory Organizations; The Depository Trust Company; Order Granting Accelerated Approval of a Proposed Rule Change Modifying the Same-Day Funds Settlement System to Accommodate the Overall Conversion to Same-Day Funds Settlement for Securities Transactions

May 16, 1995.

On March 22, 1995, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DTC–95–06) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on April 21, 1995.[2] No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Description of the Proposal

DTC currently processes the money settlements related to different types of securities transactions in either the next-day funds[3] settlement (''NDFS'') system or the same-day funds[4] settlement (''SDFS'') system. The NDFS system is used primarily for the money settlement of equity, corporate debt, and municipal debt issue transactions. The SDFS system began operation in 1987 and is used primarily for the money settlement of transactions in commercial paper and other money market instruments (''MMIs'').[5]

DTC and the National Securities Clearing Corporation (''NSCC'') jointly have issued three memoranda which describe DTC's and NSCC's respective plans for converting their payment systems to SDFS.[6] DTC's sections of the memoranda describe its plan to combine its NDFS and SDFS systems into a single system which will be based on the design of the current SDFS system with some modifications. DTC's and NSCC's plans are in accord with the 1989 recommendation of the international Group of Thirty[7] that all securities transactions should settle in same-day funds.[8]

Under the conversion plan, all issues currently settling in DTC's NDFS system will be transferred to the SDFS system on a single day, which DTC anticipates will occur in the fourth quarter of 1995 or the first quarter of 1996.[9] In order to assure an efficient conversion, certain modifications to the current SDFS system will be implemented at various times during 1995 prior to the overall conversion date. The purpose of the current rule change is to convert DTC's current SDFS system Participants Fund to an all cash fund and to modify certain risk management controls and other features of the SDFS system. The Participants Fund for the NDFS system will not be affected by this rule change. The rule change implements a number of the modifications described in the 1994 Memorandum.[10]

Currently, the SDFS system Participants Fund consists of cash and securities and has separate components for money market instruments and for other SDFS system securities.[11] The rule change converts DTC's SDFS system Participants Fund to an all-cash fund with no separate component for the MMI Program.[12] The rule change also

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 35613 (April 17, 1995), 60 FR 19971.

[3] The term ''next-day funds'' refers to payment by means of certified checks that are for value on the following day.

[4] The term ''same-day funds'' refers to payment in funds that are immediately available and generally are transferred by electronic means.

[5] For a description of the SDFS system, refer to Securities Exchange Act Release Nos. 24689 (July 9, 1987), 52 FR 26613 [File No. SR–DTC–87–04] (order granting temporary approval to DTC's SDFS settlement service); 26051 (August 31, 1988), 53 FR 34853 [File No. SR–DTC–88–06] (order granting permanent approval to DTC's SDFS settlement service); 33958 (April 22, 1994), 59 FR 22878 [SR–DTC–93–12] (order temporarily approving DTC's MMI settlement program through April 1, 1994); and 35655 (April 30, 1995), 60 FR 22423 [File No. SR–DTC–95–05] (order temporarily approving DTC's MMI settlement program through April 30, 1996).

[6] The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 1, 1992) (''1992 Memorandum''); The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 26, 1993) (''1993 Memorandum''); The Depository Trust Company and National Securities Clearing Corporation, Memorandum (July 29, 1994) (''1994 Memorandum'').

[7] The Group of Thirty was established in 1978 as an independent, nonpartisan, nonprofit organization composed of international financial leaders whose focus is on international economic and financial issues.

[8] Group of Thirty, Clearance and Settlement Systems in the World's Securities Markets (March 1989) (''Group of Thirty Report'').

[9] Only one DTC Participants Fund will be needed when the NDFS system and the SDFS system are combined into a new SDFS system.

[10] *Supra* note 6 and accompanying text.

[11] Currently, the SDFS system Participants Fund consists of approximately $253 million in cash and $567 million in pledged securities.

[12] Under the conversion plan, the SDFS system Participants Fund will consist of $400 million in cash. Based on current activity levels, DTC believes that a $400 million cash-only Participants Fund will provide sufficient protection against present liquidity and credit risks. Pursuant to its rules, DTC may change the formulas used to determine a participant's required deposit or require a

decreases the minimum deposit to the SDFS system Participants Fund from $200,000 to $10,000 and changes the method of calculating a participant's required deposit.

The new SDFS Participants Fund formula bases each participant's required deposit on the amount of liquidity that the participant uses in the system. A participant's liquidity use will be determined using a sixty day rolling average of the participant's intraday net debit peaks.[13] The rule change requires a participant to deposit in the SDFS Participants Fund an amount equal to that participant's proportional liquidity needs.[14]

In addition, the rule change modifies certain risk management controls in the SDFS system. The method used to calculate the net debit cap for each participant is being changed [15] and the maximum net debit cap for each participant is being increased to $900,000,000 from approximately $580,000,000 today. The rule change also adds the Largest Provisional Net Credit (''LPNC'') calculation control which is designed to protect DTC against the combined failure of an issuer of MMIs and a participant. The LPNC control creates a provisional net balance by withholding a participant's largest net settlement credit due to transactions in any single issuer's MMIs. DTC's risk management controls will be applied to the provisional net balance that is created by the LPNC procedure, and transactions that cause the provisional net balance to violate those risk management controls will not be completed.[16]

The rule change also modifies certain aspects of DTC's Participant Operating Procedures on reclamations [17] for both the NDFS and the SDFS system, the Receiver Authorized Delivery (''RAD'') service [18] and the recycle algorithm for deliver orders.[19] The modified procedures provide for the validation of all reclaims by DTC's system. When a participant submits a reclaim for processing in DTC's NDFS or SDFS systems, DTC's system will verify that a corresponding original delivery that was completed on the same day exists for every reclaim presented for processing.

The modified procedures also establish a minimum threshold of $15,000,000 for bilateral RAD limits. Participants currently are permitted to set individual dollar limits against other possible contra-participants so that deliveries with a settlement value exceeding the specified limit will not be processed until the receiver-participant has reviewed and approved the delivery. To limit the number of transactions subject to RAD, participants will not be able to set RAD limits at an amount less than $15 million.

The new recycle algorithm for deliver orders will offer SDFS system users a second recycle options for deliver orders. Transactions that are recycled because of insufficient positions or violations of risk management controls are currently prioritized based on transaction type and then on transaction size (''Option 1''). The new option (''Option 2'') provides participants with the ability to choose whether pending transactions caused by an insufficient position will be recycled in the order in which they were entered (*i.e.*, first in, first out) or in the Option 1 prioritization schedule.[20]

Most of the modifications to be implemented by the rule change will be effective on dates to be specified by DTC in the second quarter of 1995. The control involving the LPNC calculation and the $15,000,000 threshold for bilateral RAD limits will be made effective on dates to be specified by DTC in the third quarter of 1995.

II. Discussion

Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible.[21] As discussed below, the Commission believes that DTC's proposed rule change is consistent with DTC's obligations under the Act.

The Commission believes that DTC's SDFS system rules and procedures provides certain protections for DTC and its participants from financial loss associated with member defaults and insolvencies. The rule change contains a number of protections designed to decrease the chance of member default and to limit loss in the event of a default. Those protections include an all-cash SDFS Participants Fund, a new Participants Fund formula based on liquidity use, a new net debit cap formula, a new fixed net debit cap of $900 million, and the application of the LPNC control.

The new SDFS Participants Fund will be comprised of approximately $400

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participant to make additional deposits to the Participants Fund.

[13] The new SDFS system will monitor the levels of a participant's net settlement debits during each day and will record the highest net debit experienced by that participant. This measure of liquidity is referred to as the participant's ''intraday debit peak.''

[14] For example, assume DTC had three participants, A, B, and C, and had established $400,000,000 as the size of the SDFS system Participants Fund. Each participant's minimum deposit would be $10,000 for a total of $30,000 which leaves $399,970,000 as the incremental fund deposit amount needed for the Participants Fund. In order to allocate the $399,970,000 among the three participants, their respective average intraday net debit peaks would be used. Assume Participant A's average net debit peak is $300,000,000, Participant B's is $500,000,000, and Participant C's is $500,000,000. Since all incurred net debit peaks of at least $300,000,000, each created liquidity needs of $300,000,000 and would contribute equally to provide DTC's first $300,000,000. Each would be responsible for a $10,000 minimum deposit plus a $99,990,000 incremental deposit bringing the total to $100,000,000 for each participant and $300,000,000 in total. Participants B and C would be assigned an additional $100,000,000 increment since they were responsible for creating liquidity needs up to $500,000,000. Together, A, B, and C would be assigned incremental amounts totaling $499,970,000. Since the goal is to create a $400,000,000 Participants Fund, the $499,970,000 must be prorated downward to 399,970,000, the amount needed in addition to their minimum contributions to achieve $400,000,000. Each participant's increments would be reduced by applying a factor of .799988 (*i.e.*, 399,970,000/499,970,000). Their required deposits would then be as follows:

A: $10,000 + ($99,990,000 × .799988)=$80,000,800

B: $10,000 + ($199,990,000 × .799988)=$159,999,600

C: $10,000 + ($199,990,000 × .799988)=$159,999,600

Total: $400,000,000

[15] A participant's net debit cap will be based on an average of the participant's three highest intraday net debit peaks over a rolling three-month period multiplied by factors ranging from 1 to 2 based on a sliding scale relative to the size of the participant's net debit peaks. Net debit caps will be determined by and will be applied to a participant's simulated net debit balances caused by the Largest Provisional Net Credit (''LPNC'') procedure describe below.

[16] DTC will subtract the amount of a participant's largest provisional net credit due to transactions in any single issuer's MMIs from the participant's collateral monitor (''simulated collateral monitor'') and net debit or credit balance (''simulated balance''). If a transaction will cause the simulated collateral monitor to turn negative (*i.e.*, the participant's collateral would be insufficient to cover its simulated net debit after the transaction) or the resulting net debit balance to exceed the participant's net debit cap, the transaction will be blocked. Blocked transactions will be recycled until credits from other transactions in MMIs of issuers other than those of the largest provisional net credit cause the simulated collateral monitor to be positive or the resulting net debit to be within the net debit cap limits.

[17] A reclamation is the return of a delivery order or a payment order by a participant.

[18] RAD allows participants to review and either approve or cancel incoming deliveries before they are processed in DTC's system.

[19] DTC's Account Transfer Processor system provides for the recycling or pending of transactions that cannot be completed due to a participant's insufficient positions or violations of risk management controls (*i.e.*, Net Debit Cap and Collateral Monitor).

[20] Under Options 1 and 2, CNS deliveries are always given the highest priority on the recycle queue.

[21] 15 U.S.C. 78q–1(b)(3)(F) (1988).

million in cash deposit and $700 million in committed line(s) of credit.[22] In the event that a participant fails to settle for any reason, the all-cash fund in most cases should provide enough immediate liquidity to complete settlement without causing DTC to use its lines of credit. The size of the fund, $400 million in cash, was designed to provide sufficient liquidity to cover all but a few of DTC's largest participants' individual net settlement debits. The $700 million in committed lines of credit should provide additional liquidity sufficient to cover the large end-of-day net debits expected to be produced by these few largest participants with the application of a new net debit cap of $900 million.

Although the minimum deposit to the Participants Fund has been decreased from $200,000 to $10,000, participants will be required to deposit additional amounts based on the size of their intraday net debits weighted against other participants' net debits. As a result, the cash deposits in the SDFS system fund will be increased from $210 to $400 million. The allocation under the new Participants Fund formula will apportion fund deposits among participants in proportion to the liquidity requirements they generate in the system. The new Participants Fund formula also will more accurately reflect each participant's liquidity requirements because it is based on a participant's net debit peaks for the prior sixty days. The current fund formula is based on a participant's average gross debits and credits only for the prior month. While the use of gross debits and credits reflects a participant's activity levels, the use of net debit peaks reflects a participants actual liquidity needs.

The changes to DTC's risk management controls also are intended to protect DTC and its participants against the inability of one or more participants to fulfill its or their settlement obligations. DTC's risk management controls are based on the Board of Governors of the Federal Reserve System's guidelines for book-entry securities systems that settle over Fedwire.[23] The new net debit cap formula establishes a single net debit cap as opposed to the several adjustable and fixed net debit caps currently used in the SDFS system.[24] The new net debit cap will better reflect the participants most recent liquidity needs and not just its liquidity needs for the prior month[25] because it will be calculated daily using a 90-day rolling average.[26] By requiring participants to have sufficient collateral to support their net debits and by ensuring that their net debits do not exceed their net debit caps, the new LPNC procedure should help to ensure that the occurrence of a combined MMI issuer's default and a participant's failure to settle does not expose DTC to loss and liquidity risks. The application of the LPNC procedure to both the net debit cap and the collateralization procedures should result in a failing participant's net debit remaining collateralized and within its net debit cap if the MMI issuer in which it has the largest net credit also defaulted.

The rule change implements certain modifications to DTC's current SDFS system to provide for an efficient conversion to SDFS environment for all securities transactions. The Commission believes that the overall conversion to a SDFS system will help reduce systemic risk by eliminating overnight credit risk. The SDFS system also will reduce risk by achieving closer conformity with the payment methods used in the derivatives markets, government securities markets and other markets.

For the reasons described above, the Commission believes that DTC's proposed rule change fulfills the requirements of Section 17A(b)(3)(F) of the Act because the proposal assures the safeguarding of securities and funds in the custody and control of DTC. Furthermore, the proposed rule change facilitates the overall conversion of DTC's payment system to an SDFS system which should facilitate the prompt and accurate clearance and settlement of securities transactions.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because the modifications implemented by the rule change are part of the planned conversion of DTC's entire money settlement system to an SDFS system. The Commission believes that participants should have the opportunity to become familiar with the SDFS system capability and the new risk management controls prior to the complete conversion to an SDFS system for securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act, particularly with Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–95–06) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[27]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12520 Filed 5–22–95; 8:45 am]

BILLING CODE 8010–01–M

[22] The current SDFS Participants Fund consists of approximately $253 million in cash contributions, $50 million in internal sources, $500 million in external lines of credit and $500 million in additional external lines of credit exclusively dedicated to the MMI program.

[23] ''Federal Reserve Policy Statement on Private Delivery-Against-Payment Systems,'' Board of Governors of the Federal Reserve System (June 15, 1989).

[24] A participant's net debit cap currently is the least of the following: (1) An amount which is a multiple of the participant's mandatory and voluntary deposits in the fund; (2) an amount equal to 75% of DTC's lines of credit; (3) an amount, if any, determined by the participant's settling bank; or (4) an amount, if any, determined by DTC.

[25] Because a participant's current adjustable net debit cap is based on the participant's mandatory fund deposit, it will only change on a monthly basis as the required deposit changes. However, a participant may choose to increase its adjustable net debit cap at any time by making voluntary deposits.

[26] *Supra* note 15.

[27] 17 CFR 200.30–3(a)(12) (1994).

[Release No. IC–21075; 812–9530]

Northern Life Insurance Company, et al.; Notice of Application

May 16, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an Order under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Northern Life Insurance Company (''Northern Life''), Separate Account One (the ''Separate Account''), and Washington Square Securities, Inc. (the ''Distributor'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act granting an exemption from sections 26(a)(2)(C) and 27(c)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order permitting Northern Life to deduct a mortality and expense risk charge from the assets of the Separate Account in connection with the offering of certain flexible premium individual deferred variable annuity contracts.

FILING DATE: The application was filed on March 20, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be

issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 13, 1995, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o James E. Nelson, Esq., ReliaStar Financial Corp., 20 Washington Avenue South, Minneapolis, Minnesota 55401.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Northern Life, a stock life insurance company, is incorporated under Washington law. Northern Life is an indirect, wholly-owned subsidiary of ReliaStar Financial Corp.

2. The Separate Account was established by Northern Life as a funding medium for certain flexible premium individual deferred variable annuity contracts (the ''Contracts''). The Separate Account is registered with the SEC as a unit investment trust under the Act. Units of interest in the Separate Account under the Contracts will be registered under the Securities Act of 1933.

3. The Separate Account currently is divided into subaccounts which invest in the series (''Series'') of Variable Insurance Products Fund, Variable Insurance Products Fund II, or Northstar/NWNL (each, a ''Fund''). Each Fund is a diversified, open-end management investment company. Each Series has separate investment objectives and policies.

4. The Distributor is the distributor and principal underwriter of the Contracts. The Distributor is registered under the Securities Exchange Act of 1934 as a broker-dealer, and is a member of the National Association of Securities Dealers, Inc.

5. The Contracts consist of two series of flexible premium individual deferred variable annuity contracts. The first series of Contracts consists of an individual deferred tax-sheltered annuity contract, an individual deferred retirement annuity contract, and an individual deferred annuity contract (the ''Transfer Series Contracts''). The second series of Contracts consists of a flexible premium individual deferred tax-sheltered annuity contract and a flexible premium individual deferred retirement annuity contract (the ''Flex Series Contracts'').

6. The minimum purchase payment for a Transfer Series Contract is $15,000, and subsequent payments must be at least $5,000. The minimum purchase payment, and minimum subsequent payment, for a Flex Series Contract is $50. Purchase payments may be allocated to one or more of the subaccounts of the Separate Account which have been established to support the Contracts, or to Fixed Account A or Fixed Account B, which are part of the general account of Northern Life.

7. Several annuity payout options, on both a fixed and variable basis, are available under the Contracts. Northern Life also provides a guaranteed death benefit. If the Contract owner (or, in the case of certain Transfer Series Contracts, the annuitant) dies prior to age 80, the death benefit is equal to the greater of (i) all purchase payments less any withdrawals, amounts used to purchase annuity payouts, any outstanding loan balance, and the amount of previously deducted annual Contract charges, (ii) the Contract value less any outstanding loan balance, or (iii) the Contract value on the most recent Contract anniversary that is a multiple of six years, measured from the Contract issue date, plus any purchase payments since that anniversary and minus any withdrawals, amounts used to purchase annuity payouts, and any previously deducted annual Contract charges since that anniversary, and less any outstanding loan balance. If the Contract owner (or, in the case of certain Transfer Series Contracts, the annuitant) dies on or after age 80, the death benefit is the Contract value less the outstanding loan balance. If the Contract owner of a Transfer Series individual deferred annuity Contract dies at any age, the death benefit will be equal to the Contract value less any applicable contingent deferred sales charge, any outstanding loan balance and the $30 annual Contract charge.

8. Among the various charges and fees Northern Life will deduct under the Contracts is an annual Contract charge of $30 designed to compensate Northern Life for the administrative services provided under the Contracts. It will be deducted *pro rata* from the fixed accounts and each Separate Account subaccount, and is guaranteed not to increase.

9. Northern Life also will deduct from the assets of the Separate Account a daily asset administration charge, equal to an annual rate of .15%. This charge is designed to reimburse Northern Life for administrative services it provides with respect to the Contracts and the Separate Account, and is guaranteed not to increase.

10. Northern Life does not currently intend to impose a charge for any transfers among the Separate Account subaccounts and the fixed accounts, but reserves the right to impose a charge of up to $25 for each transfer. Northern Life also does not currently intend to impose a processing fee for partial withdrawals of Contract value, but reserves the right to assess a fee not to exceed the lesser of 2% of the partial withdrawal account, of $25.

11. These administrative charges will be deducted in reliance on rule 26a–1 under the Act, and each represents reimbursement only for administration costs expected to be incurred over the life of the Contracts. Northern Life does not anticipate any profit from any of these charges. Administrative charges may be reduced or waived under certain circumstances.

12. Northern Life may assess a contingent deferred sales charge (''CDSC'') in the event of any partial or full withdrawal of Contract value under the Transfer Series Contracts and the Flex Series Contracts. The CDSC for the Transfer Series Contracts is calculated as a percentage of each purchase payment. The CDSC will apply during the year the Contract takes effect and for the five Contract years immediately thereafter, according to the following schedule:

Contract year of withdrawal minus contract year of purchase payment	Withdrawal charge as a percentage of each purchase payment (percent)
0	6
1	6
2	5
3	5
4	4
5	2
6 and later	0

For purposes of imposing the CDSC, purchase payments are considered to be withdrawn on a first-in, first-out basis,

and purchase payments are considered to be withdrawn before earnings thereon. No CDSC is imposed upon either annuitization or payment of the death benefit, except that if the Contract owner of a Transfer Series individual deferred annuity Contracts dies, a CDSC is deducted upon payment of the death benefit.

13. The CDSC for the Flex Series Contracts is calculated as a percentage of Contract value withdrawn. The CDSC may be assessed against any full or partial withdrawal of Contract value occurring before the eleventh Contract year, in accordance with the following schedule:

Contract year	Withdrawal charge
1	8
2	8
3	8
4	7
5	6
6	5
7	4
8	3
9	2
10	1
11+	0

No CDSC is imposed upon either annuitization or payment of the death benefit.

14. Under both the Transfer Series Contracts and the Flex Series Contracts, the Contract owner may withdraw a portion of the Contract value during any 12-month period after the issue date of the Contract without Northern Life deducting a CDSC. The amount on which no CDSC will be imposed is the greater of: (i) 10% of the Contract value less any outstanding loan balance, or (ii) the purchase payments remaining which are no longer subject to a CDSC (Transfer Series Contracts) or the Contract value no longer subject to a CDSC (Flex Series Contracts). This privilege may only be exercised a limited number of times during any 12-month period. In addition, the CDSC may be reduced or waived under certain circumstances.

15. Northern Life does not anticipate that CDSC revenues from the Transfer Series Contracts and the Flex Series Contracts will generate sufficient funds to pay the cost of distributing the Contracts. If CDSC revenues are insufficient to cover distribution expenses, the deficiency will be met with amounts from Northern Life's general account, which may include amounts derived from the mortality and expense risk charge.

16. Northern Life may deduct any applicable premium taxes levied by any unit of government. As permitted or required by applicable state law, Northern Life may deduct premium taxes from purchase payments upon receipt, or deduct premium taxes from Contract value at a later date.

17. Northern Life proposes to assess a charge to compensate it for bearing certain mortality and expense risks in connection with both Contracts. This charge is equal to an effective annual rate of 1.25% of the value of the assets in the Separate Account. Of that amount, .85% is attributable to mortality risks, and .40% is attributed to expense risks. The rate of the mortality and expense risk charge is guaranteed not to increase.

18. The mortality risk arises from Northern Life's contractual obligation to make annuity payments regardless of how long all annuitants, or any individual annuitant, may live. This obligation assures that neither an annuitant's own longevity, nor an improvement in general live expectancy, will adversely affect the monthly annuity payments that an annuitant will receive under a Contract. Northern Life also incurs a mortality risk in connection with the death benefit guarantee. In addition, Northern Life assumes the expense risk that its actual administrative costs will exceed the amount recovered through the administrative charges.

19. If the mortality and expense risk charge is insufficient to cover Northern Life's actual costs and assumed risks, the loss will fall on Northern Life. If the charge is more than sufficient to cover costs, any excess will be profit to Northern Life. Northern Life currently anticipates a profit from this charge.

Applicant's Legal Analysis

1. Applicants request an exemption under section 6(c) of the Act from sections 26(a)(2)(C) and 27(c)(2) of the Act to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account under the Contracts.

2. Sections 26(a)(2)(C) and 27(c)(2) of the Act, in relevant part, prohibit a principle underwriter for, or depositor of, a registered unit investment trust from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a qualified trustee or custodian, within the meaning of section 26(a)(1), and are held under arrangements that prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the SEC may prescribe, for performing bookkeeping and other administrative duties normally performed by the trustee or custodian. Northern Life's deduction of a mortality and expense risk charge from the assets of the Separate Account may be deemed to be a payment prohibited by sections 26(a)(2)(C) and 27(c)(2).

3. Section 6(c) of the Act authorizes the SEC, by order upon application, to grant an exemption from any provision of the Act, or any rule or regulation promulgated thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants believe that Northern Life is entitled to reasonable compensation for its assumption of mortality and expense risks. Applicants represent that the proposed mortality and expense risk charge of 1.25% is consistent with the protection of investors because it is a reasonable and proper insurance charge. The charge is a reasonable one to compensate Northern Life for the risks that: (i) Annuitants under the Contracts will live longer individually or as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts; (ii) the Contract value will be less than the death benefit; and (iii) administrative expenses will be greater than amounts derived from the administrative charges.

5. Northern Life represents that the 1.25% mortality and expense risk charge under the Contracts is within the range of industry practice for comparable annuity products. This representation is based upon Northern Life's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. Northern Life will maintain at its administrative offices, and make available to the SEC upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

6. Applicants acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed as being offset by distribution expenses not reimbursed by CDSC revenues. Northern Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements for the Contracts will benefit the Separate Account and the Contract owners. The basis for that conclusion will be set forth in a memorandum that will be

maintained by Northern Life at its administrative offices and will be available to the SEC.

7. Northern Life states that the Separate Account will invest only in those management investment companies that undertake, in the event such company should adopt a plan under rule 12b–1 under the Act to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not ''interested persons'' of such investment company, formulate and approve any such plan pursuant to rule 12b–1.

Conclusion

For the reasons set forth above, applicants believe that the requested exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12598 Filed 5–22–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21079; 812–9496]

Quest for Value Distributors, et al.; Notice of Application

May 17, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Quest for Value's Unit Investment Laddered Trust Series (''Quilts'') and Quest for Value Distributors (''Quest Distributors'' or the ''Sponsor'').

RELEVANT ACT SECTIONS: Order requested under sections 11(a) and 11(c).

SUMMARY OF APPLICATION: Applicants request an order to permit certain offers of exchange between unit investment trusts.

FILING DATES: The application was filed on February 23, 1995, and amended on April 12, 1995 and May 5, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 12, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary: SEC, 450 5th Street NW, Washington, DC 20549. Applicants: Two World Trade Center, 225 Liberty Street, New York, New York 10080–6116.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney (202) 942–0572, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Quilts is a series of unit investment trusts registered under the Act and is sponsored by Quest Distributors. Quilts consists of Quilts Monthly Income—U.S. Treasury Series 1, Quilts Asset Builder—U.S. Series 3, Quilts Income—Corporate Series 1, and Quilts Municipal Insured Series 1. Applicants also request relief for future series of Quilts and subsequently issued unit investment trusts sponsored by the Sponsor or a sponsor controlled by or under common control with the Sponsor and registered (or to be registered) under the Securities Act of 1933 and the Act (collectively with Quilts, the ''Trusts'').

2. The sales charge for initial investment in the Trusts currently ranges between .85% to 4.5% of the public offering price, subject to discounts for certain volume transactions. Quest Distributors intends to maintain a secondary market for the units of each series, although it is not obligated to do so. The sales charge upon units sold in the secondary market ranges from .85% to 4.5% plus net accrued interest.

3. Applicants propose to offer an exchange privilege to unitholders of the Trusts at a reduced sales charge (the ''Exchange Privilege''). Unitholders would be able to exchange any of their units for units in one or more available series of the Trusts (the ''Exchange Trust''). Applicants also propose to offer a rollover privilege to unitholders of the Trusts at a reduced sales charge (the ''Rollover Privilege''). Unitholders would be able to ''roll over'' their units in a series which is terminating for units of one or more new series of the Trusts (the ''Rollover Trust'').

4. To exercise the Exchange or Rollover Privilege, a unitholder must notify the Sponsor. Exercise of the Exchange or Rollover Privilege is subject to the following conditions: (a) The Sponsor must be maintaining a secondary market in units of the Trust held by the unitholder and units of the Trust to be acquired in the exchange, (b) at the time of the exchange, there must be units of the Exchange or Rollover Trust to be acquired available for sale, and (c) exchanges will be in whole units only.

5. Unitholders who wish to exchange units under the Exchange or Rollover Privileges within the first five months of purchase will not be eligible for the reduced sales charge. Such unitholders will be charged a sales load equal to the greater of (a) the reduced sales load or (b) an amount which, when added to the sales charge paid by the unitholder upon his or her original purchase of units of the Trusts, would equal the sales charge applicable to the direct purchase of the newly acquired units, determined as of the date of exchange.

Applicants' Legal Analysis

1. Section 11(a) requires SEC approval of an offer to exchange securities between open-end investment companies if the exchange occurs on any basis other than the relative net asset values of the securities to be exchanged. Section 11(c) makes section 11(a) applicable to any type of exchange offer of securities of registered unit investment trusts for the securities of any other investment company, irrespective of the basis of exchange.

2. Applicants represent that unitholders will not be induced or encouraged to participate in the exchange privilege through an active advertising or sales campaign. Quest Distributors recognizes its responsibility to its customers against generating excessive commissions through churning and asserts that the sales charge collected will not be a significant economic incentive to salesmen to promote inappropriately the exchange privilege. Applicants further believe that the Exchange and Rollover Privileges are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant's Conditions

If the requested order is granted, applicants agree to the following conditions:

1. The prospectus for each series and any sales literature or advertising that mentions the existence of the Exchange Privilege or the Rollover Privilege will disclose that the Exchange and the Rollover Privilege are subject to termination and that their terms are subject to change.

2. Whenever the Exchange Privilege or the Rollover Privilege is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that:

a. No such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new series eligible for the Exchange Privilege or the Rollover Privilege, or to delete a series which has terminated; and

b. No notice need be given if, under extraordinary circumstances, either

i. There is a suspension of the redemption of units of an Exchange Trust or a Rollover Trust under section 22(e) of the Act and the rules and regulations thereunder, or

ii. An Exchange Trust or a Rollover Trust temporarily delays or ceases the sale of its units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies and restrictions.

3. An investor who purchases units under the Exchange or Rollover Privilege will pay a lower aggregate sales charge than that which would be paid for the units by a new investor.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margatet H. McFarland,

Deputy Secretary.

[FR Doc. 95–12597 Filed 5–22–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21068; File No. 812–9438]

Smith Barney/Travelers Series Fund, et al.

May 15, 1995.

AGENCY: Securities and Exchange Commission (the ''Commission'' or the ''SEC'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: Smith Barney/Travelers Series Fund(''SB/T Fund''), Smith Barney Series Fund (''Series Fund''), and certain life insurance companies and their separate accounts investing now or in the future in the SB/T Fund or the Series Fund.

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from the provisions of Section 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit shares of the SB/T Fund, the Series Fund and all future open-end investment companies for which Smith Barney Mutual Fund Management, Inc., or any affiliate thereof, serves as investment adviser, manager, principal underwriter, or sponsor and whose shares are sold to separate accounts of insurance companies and qualified person and retirement plans the ''Future Funds'') (the SB/T Fund, the Series Fund and the Future Funds collectively are referred to as the ''Funds'') to be sold to and held by: (a) Variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies (''Participating Insurance Companies''); and (b) qualified pension and retirement plans outside of the separate account context (''Qualified Plans'').

FILING DATES: The application was filed on January 18, 1995, and amended on May 5, 1995.

HEARING AND NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 9, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: Christina T. Sydor, Esquire, Smith Barney, Inc., 388 Greenwich Street, Twenty-Second Floor, New York, New York 10013.

FOR FURTHER INFORMATION CONTACT: Mark C. Amorosi, Attorney, or Wendy Finck Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The SB/T Fund, a Maryland corporation incorporated on February 22, 1994, is registered under the 1940 Act as an open-end, diversified management investment company. The SB/T Fund consists of eleven portfolios: The Smith Barney Income and Growth Portfolio, the Alliance Growth Portfolio, the American Capital Enterprise Portfolio, the Smith Barney International Equity Portfolio, the Smith Barney Pacific Basin Portfolio, the TBC Managed Income Portfolio, the Putnam Diversified Income Portfolio, the G.T. Global Strategic Income Portfolio, the Smith Barney High Income Portfolio, the MFS Total Return Portfolio, and the Smith Barney Money Market Portfolio. Additional portfolios may be added in the future.

2. The Series Fund, a Massachusetts business trust organized on May 13, 1991, is registered under the 1940 Act as an open-end, diversified management investment company. The Series Fund consists of ten separate portfolios (together with the portfolios of the SB/T Fund and Future Funds, the ''Portfolios''): the Money Market Portfolio, the Intermediate High Grade Portfolio, the Diversified Strategic Income Portfolio, the Equity Income Portfolio, the Equity Index Portfolio, the Growth & Global Income Portfolio, the Appreciation Portfolio, the Total Return Portfolio, the Emerging Growth Portfolio, and the International Equity Portfolio. Additional portfolios may be added in the future.

3. Smith Barney Mutual Funds Management, Inc. (''SBMFM'') is the investment adviser for the SB/T Fund, and is a wholly-owned subsidiary of Smith Barney Holdings, Incorporated. Smith Barney Holdings, Inc. is a wholly-owned subsidiary of Travelers Group, which is a financial services holding company engaged, through its subsidiaries, principally in four business segments: investment services, consumer finance services, life insurance services, and property and casualty insurance services.

4. SBMFM also is the investment adviser for all the Series Fund Portfolios except the Equity Index Portfolio and the Emerging Growth Fund Portfolio. PanAgora Asset Management, Inc. is the investment adviser for the Equity Index

Portfolio, and is 50% owned by Nippon Life Insurance Company and 50% owned by Lehman Brothers, Inc., which is a wholly-owned subsidiary of Lehman Brothers Holdings, Inc. American Capital Asset Management, Inc., is the investment adviser for the Emerging Growth Fund Portfolio and is a wholly-owned subsidiary of American Capital Management & Research, Inc., which is an indirect wholly-owned subsidiary of VKM Holdings. SBMFM, PanAgora Asset Management, Inc. and American Capital Asset Management, Inc. (collectively, the ''Advisers'') are registered as investment advisers under the Investment Advisers Act of 1940.

5. Shares of the SB/T Fund currently are sold to a separate account (the ''Travelers Separate Account'') of The Travelers Insurance Company (''The Travelers'') which funds benefits under variable contracts issued through that separate account. Shares of the Series Fund currently are sold to the Travelers Separate Account and to separate accounts of the IDS Life Insurance Company and the IDS Life Insurance Company of New York which fund benefits under variable contracts issued by those companies.

6. Applicants state that, upon the granting of the order requested in this application, the Funds intend to offer shares of their existing Portfolios and future investment portfolios to separate accounts of Participating Insurance Companies (the ''Separate Accounts'') to serve as the investment vehicle for various types of insurance products, which may include variable annuity contracts, single premium variable life insurance contracts, scheduled premium variable life insurance contracts and flexible premium variable life insurance contracts.

Applicant's Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–2(b)(15) provides partial exemptions from Section 9(a), 13(a), 15(a) and 15(b) of the 1940 Act. The relief provides by Rule 6e–2 is also available to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted by Rule 6e–2(b)(15) are available only where the management investment company underlying the unit investment trust (''underlying fund'') offers its shares ''exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company.'' Therefore, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity or a flexible premium variable life insurance separate account of the same company or of any other life insurance company. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliate life insurance company is referred to herein as ''mixed funding.''

2. In addition, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to separate accounts funding variable contracts of one or more unaffiliated life insurance companies. The use of a common management investment company as the underlying investment medium for variable life insurance separate accounts of one insurance company and separate accounts funding variable contracts of one or more unaffiliated life insurance companies is referred to herein as ''shared funding.''

3. Applicants state that the relief granted by Rule 6e–2(b)(15) is not affected by the purchase of shares of a Fund by the Qualified Plans. Applicants note, however, that because the relief under Rule 6e–2(b)(15) is available only where shares are offered exclusively to separate accounts, additional exemptive relief is necessary if shares of the Funds also are to be sold to Qualified Plans.

4. In connection with the funding of flexible premium variable life insurance contracts issued through a unit investment trust, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 15(a), and 15(b) of the 1940 Act. The relief provided by Rule 6e–3(T) also is available to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted by Rule 6e–3(T) are available only where the unit investment trust's underlying fund offers its shares ''exclusively to separate accounts of the life insurer or of any affiliated life insurance company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company * * *'' Therefore, Rule 6e–3(T) permits mixed funding with respect to a flexible premium variable life insurance separate account subject to certain conditions. However, Rule 6e–3(T) does not permit shared funding because the relief granted by Rule 6e–3(T)(b)(15) is not available with respect to a flexible premium variable life insurance separate account that owns shares of a management company that also offers its shares to separate accounts (including variable annuity and flexible premium and scheduled premium variable life insurance separate accounts) of unaffiliated life insurance companies.

5. Applicants state that the relief granted by Rule 6e–3(T) is not affected by the purchase of shares of the Funds by the Qualified Plans. Applicants note, however, that because the relief under Rule 6e–3(T) is available only where shares are offered exclusively to separate accounts, additional exemptive relief is necessary if shares of the Funds are also to be sold to Qualified Plans.

6. Applicants state that changes in the tax law have created the opportunity for each Fund to increase its asset base through the sale of shares of the Fund to Qualified Plans. Applicants state the Section 817(h) of the Internal Revenue Code of 1986, as amended (the ''Code''), imposes certain diversification standards on the underlying assets of the contracts held in the Funds. The Code provides that such contracts shall not be treated as annuity contracts or life insurance contracts for any period in which the investments are not, in accordance with regulations prescribed by the Department of the Treasury, adequately diversified. On March 2, 1989, the Department of the Treasury issued regulations which established diversification requirements for the investment portfolios underlying variable contracts. Treas. Reg. § 1.817–5 (1989). The regulations provide that, to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. The regulations do, however, contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the ability of shares in the same investment company also to be held by the separate accounts of insurance companies in connection with their variable contracts. Treas. Reg. § 1.817–5(f)(3)(iii).

7. Applicants state that the promulgation of Rules 6e–2 and Rule 6e–3(T) under the 1940 Act preceded the insurance of these Treasury regulations. Applicants assert that, given the then current tax law, the sale of shares of the same investment

company to both separate accounts and qualified pension and retirement plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

8. Applicants therefore request that the Commission, under its authority in Section 6(c) of the 1940 Act, grant relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder for themselves and for variable life insurance separate accounts of the Participating Insurance Companies, and the principal underwriters and depositors of such separate accounts, to the extent necessary to permit mixed funding and shared funding.

9. Section 9(a) of the 1940 Act makes it unlawful for any company to serve as an investment adviser to, or principal underwriter for, any registered open-end investment company if an affiliated person of that company is subject to any disqualification specified in Sections 9(a)(1) or 9(a)(2), Rule 6e–2(b)(15)(i) and (ii) and Rule 6e–3(T)(b)(15)(i) and (ii) provide exemptions from Section 9(a) under certain circumstances, subject to limitations on mixed and shared funding. The relief provided by Rules 6e–2(b)(15)(i) and 6e–3(T)(b)(15)(i) permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of the life insurer, or any of its affiliates, so long as that person does not participate directly in the management or administration of the underlying fund. The relief provided by Rules 6e–2(b)(15)(ii) and 6e–3(T)(b)(15)(ii) permits the life insurer to serve as the underlying fund's investment adviser or principal underwriter provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) participate in the management or administration of the fund.

10. Applicants state that the partial relief granted in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) from the requirements of Section 9(a), in effect, limits the monitoring of an insurer's personnel that would otherwise be necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicants state that Rules 6e–2 and 6e–3(T) recognize that it is not necessary for the protection of investors or for the purposes of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in an insurance company complex, most of whom typically will have no involvement in matters pertaining to an investment company in that organization. Applicants submit that there is no regulatory reason to apply the provisions of Section 9(a) to the many individuals in various unaffiliated insurance companies (or affiliated companies of Participating Insurance Companies) that may utilize the Funds as the funding medium for variable contracts. The application states that the relief requested will not be affected by the proposed sale of shares of the Funds to Qualified Plans. The insulation of the Funds from individuals disqualified under the 1940 Act remains in place. Applicants assert that, since the Qualified Plans are not investment companies and will not be deemed affiliated by virtue of their shareholdings, no additional relief is necessary.

11. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) under the 1940 Act assume the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. The application states that the Participating Insurance Companies will provide pass-through voting privileges to all contract owners so long as the Commission interprets the 1940 Act to require such privileges.

12. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide partial exemptions from Sections 13(a), 15(a), and 15(b) of the 1940 Act to the extent that those sections have been deemed by the Commission to require ''pass-through'' voting with respect to management investment company shares held by a separate account, to permit the insurance company to disregard the voting instructions of its contract owners in certain limited circumstances.

Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii) (A) provide that the insurance company may disregard voting instructions of its contract owners in connection with the voting of shares of an underlying fund if such instructions would require such shares to be voted to cause such companies to make, or refrain from making, certain investments which would result in changes in the subclassification or investment objectives of such companies, or to approve or disapprove any contract between a Fund and its investment adviser, when required to do so by an insurance regulatory authority, subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of each Rule.

Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that the insurance company may disregard contract owners' voting instructions if the contract owners initiate any change in such company's investment policies or any principal underwriter or investment adviser, provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(5)(ii) and (b)(7)(ii) (B) and (C) of each Rule.

13. Applicants further represent that the sale of shares by a Fund to the Qualified Plans does not impact relief requested in this regard. Shares of the Funds sold to Qualified Plans would be held by the trustees of the Qualified Plans as required by Section 403(a) of ERISA. Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the Qualified Plan with two exceptions: (a) When the Qualified Plan expressly provides that the trustee(s) is (are) subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) is (are) subject to proper directions made in accordance with the terms of the Qualified Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, Qualified Plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or to the named fiduciary. In any event, there is no pass-through voting to the participants in Qualified Plans. Accordingly, Applicants note that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with respect to Qualified Plans because they are not entitled to pass-through voting privileges.

14. Applicants state that no increase conflicts of interest would be presented by the granting of the requested relief. Applicants assert that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all states. Applicants note that where Participating Insurance Companies are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. Applicants state that the possibility, however, is no different and no greater than exists where a single

insurer and its affiliates offer their insurance products in several states.

15. Applicants argue that affiliation does not reduce the potential, if any exists, for differences in state regulatory requirements. In any event, the conditions (adapted from the conditions included in Rule 6e–3(T)(b)(15)) discussed below are designed to safeguard against any adverse effects that different state regulatory requirements may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Fund.

16. Applicants also argue that affiliation does not eliminate the potential, if any exists, for divergent judgments as to when a Participating Insurance Company properly may disregard voting instructions of contract owners. Potential disagreement is limited by the requirement that the Participating Insurance Company's disregard of voting instructions be both reasonable and based on specified good faith determinations. However, if a Participating Insurance Company's decision to disregard contract owner instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its investment in that Fund. No charge or penalty will be imposed as a result of such withdrawal.

17. Applicants state that there is no reason why the investment policies of a Fund with mixed funding would or should be materially different from what those policies would or should be if such investment company of series thereof funded only variable annuity or only variable life insurance contracts. Applicants therefore argue that there is no reason to believe that conflicts of interest would result from mixed funding. Moreover, Applicants represent that the Portfolios will be managed to attempt to achieve the investment objective(s) of such Portfolio and not to favor or disfavor any particular insurer or type of variable contract.

18. Applicants note that no single investment strategy can be identified as appropriate to a particular insurance product. Each pool of variable annuity and variable life insurance contract owners is composed of individuals of diverse financial status, age, insurance and investment goals. An investment company supporting even one type of insurance product must accommodate those diverse factors in order to attract and retain purchasers.

19. Applicants further note that Section 817 of the Code is the only section in the Code where separate accounts are discussed. Section 817(h) imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life contracts held in the portfolios of management investment companies. Treasury Regulation 1.817–5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits, among other things, ''qualified pension or retirement plans'' and separate accounts to share the same underlying management investment company. Therefore, neither the Code, the Treasury regulations nor the revenue rulings thereunder present any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life insurance separate accounts all invest in the same management investment company.

20. While there are differences in the manner in which distributions are taxed for variable annuity contracts, variable life insurance conflicts and Qualified Plans. Applicants state that the tax consequences do not raise any conflicts of interests with respect to the use of the Funds. When distributions are to be made, and the separate account or the Qualified Plan is unable to net purchase payments to make the distributions, the separate account or the Qualified Plan will redeem shares of the affected Fund at their net asset value. The Qualified Plan will then make distributions in accordance with the terms of the Qualified Plan. The life insurance company will surrender values from the separate account into the general account to make distributions in accordance with the terms of the variable contract.

21. With respect to voting rights, Applicants state that it is possible to provide an equitable means of giving such voting rights to contract owners and to Qualified Plans. Applicants represent that the transfer agent for each Fund will inform each Participating Insurance Company of its share ownership in each Separate Account, as well as inform the trustees of the Qualified Plans of their holdings. Each Participating Insurance Company will then solicit voting instructions in accordance with Rules 6e–2 and 6e–3(T).

22. Applicants argue that the ability of Funds to sell their shares directly to Qualified Plans does not create a ''senior security'', as such term is defined under Section 18(g) of the 1940 Act, with respect to any variable annuity or variable life contract owner as opposed to a participant under a Qualified Plan. Regardless of the rights and benefits of participants and contract owners under the respective Qualified Plans and contracts, the Qualified Plans and the separate accounts have rights only with respect to their respective shares of the Funds. Such shares may be redeemed only at net asset value. No shareholder of any Fund has any preference over any other shareholder of that Fund with respect to distribution of assets or payment of dividends.

23. Finally, Applicants assert that there are no conflicts between contract owners and participants under the Qualified Plans with respect to the state insurance commissioners' veto powers (direct with respect to variable life insurance and indirect with respect to variable annuities) over investment objectives. The basic premise of shareholder voting is that not all shareholders may agree with a particular proposal. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies cannot simply redeem their separate accounts out of one fund and invest those monies in another fund. To accomplish such redemptions and transfers, complex, time consuming transactions must be undertaken. Conversely, trustees of Qualified Plans can make the decision quickly and implement redemption of shares from a Fund and reinvest the monies in another funding vehicle without the same regulatory impediments or, as is the case with most Qualified Plans, hold cash pending suitable investment. Based on the foregoing, Applicants represent that even should there arise issues where the interests of contract owners and the interests of Qualified Plans conflict, the issues can be resolved almost immediately because trustees of the Qualified Plans can, independently, redeem shares out of the Funds.

24. Applicants state that various factors have kept certain insurance companies from offering variable annuity and variable life insurance contracts. These factors include the cost of organizing and operating an investment funding medium, the lack of expertise with respect to investment management and the lack of public name recognition of certain insurers as investment professionals. Applicants argue that use of the Funds as common investment media for the contracts would ameliorate these concerns. Applicants submit that mixed funding and shared funding should benefit variable contract owners by: (a)

Eliminating a significant portion of the costs of establishing and administering separate funds; (b) allowing for a greater amount of assets available for investment by the Funds, thereby promoting economies of scale, permitting greater safety through greater diversification, and/or making the addition of new portfolios more feasible; and (c) encouraging more insurance companies to offer variable contracts, resulting in increased competition with respect to both variable contract design and pricing, which can be expected to result in more product variation and lower charges. Each Fund will be managed to attempt to achieve its investment objectives and not to favor or disfavor any particular Participating Insurance Company or type of insurance product.

25. Applicants assert that there is no significant legal impediment to permitting mixed and shared funding. Applicants state that separate accounts organized as unit investment trusts have historically been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account. Applicants also assert that mixed and shared funding will have no adverse federal income tax consequences.

Applicants' Conditions

The Applicants have consented to the following conditions:

1. A majority of the Board of Directors or Board of Trustees (as appropriate) (the ''Board'') of each Fund shall consist of persons who are not ''interested persons,'' as defined by Section 2(a)(19) of the 1940 Act and Rules thereunder and as modified by any applicable orders of the Commission, except that, if this condition is not met by reason of death, disqualification, or bona fide resignation of any director or directors, then the operation of this condition shall be suspended: (i) For a period of 45 days, if the vacancy or vacancies may be filled by the Board; (ii) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

2. The Board of each fund will monitor its Fund for the existence of any material irreconcilable conflict between and among the interests of the contract owners of all Separate Accounts investing in the Fund. A material irreconcilable conflict may arise for a variety of reasons, including: (a) State insurance regulatory authority action; (b) a change in applicable federal or state insurance tax or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any series are being managed; (e) a difference in voting instructions given by variable annuity and variable life insurance contract owners; or (f) a decision by a Participating Insurance Company to disregard contract owner voting instructions.

3. Participating Insurance Companies, the Advisers and any Qualified Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of a Fund (the ''Participants'') will report any potential or existing conflicts, of which they become aware, to the Board. Participants will be obligated to assist the appropriate Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever contract owner voting instructions are disregarded. These responsibilities will be contractual obligations of all Participating Insurance Companies and Qualified Plans investing in a Fund under their agreements governing participation therein, and such agreements shall provide that such responsibilities will be carried out with a view only to the interests of the contract owners.

4. If a majority of the Board, or a majority of the disinterested members of the Board, determine that a material irreconcilable conflict exists the relevant Participating Insurance Companies and Qualified Plans shall, at their expense and to the extent reasonably practicable (as determined by a majority of disinterested members of the Board), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (a) Withdrawing the assets allocable to some or all of the Separate Accounts from the Fund or any series therein and reinvesting such assets in a different investment medium (including another series of the Fund), or submitting the question whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contract owners, life insurance contract owners, or variable contract owners of one or more Participating Insurance Company) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; (b) withdrawing the assets allocable to some or all of the Qualified Plans from the affected Fund or any Portfolio of the Fund and reinvesting such assets in a different investment medium, including another Portfolio of the Fund; and (c) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to disregard contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Fund, to withdraw its Separate Account's investment therein, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies and Qualified Plans under their agreements governing participation in the Fund and these responsibilities will be carried out with a view only to the interests of the contract owners and participants in the Qualified Plans.

For the purposes of condition (4), a majority of disinterested members of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Fund or the Advisers be required to establish a new funding medium for any variable contract. No Participating Insurance Company shall be required by this condition (4) to establish a new funding medium for any variable contract if an offer to do so has been declined by a vote of a majority of contract owners materially affected by the irreconcilable material conflict.

5. The determination by the Board of the existence of an irreconcilable material conflict and its implications shall be made known promptly in writing to all Participating Insurance Companies and Qualified Plans.

6. Participating Insurance Companies will provide pass-through voting privileges to all variable contract owners so long as the Commission continues to interpret the 1940 Act to require pass-through voting privileges for variable contract owners. Accordingly, each Participating Insurance Company, where applicable, will vote shares of the

Fund held in its Separate Accounts in a manner consistent with timely voting instructions received from contract owners. Each Participating Insurance Company also will vote shares of each Fund held in its Separate Accounts for which no timely voting instructions from contract owners are received, as well as shares it owns, in the same proportion as those shares for which voting instructions are received. Each Participating Insurance Company shall be responsible for assuring that each of their Separate Accounts participating in the Fund calculates voting privileges in a manner consistent with all other Participants. The obligation to calculate voting privileges in a manner consistent with all other Separate Accounts investing in the Fund shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in the Fund.

7. Each Fund will notify all Participants that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund shall disclose in its prospectus that: (a) Its shares are offered to qualified pension and retirement plans and to separate accounts which fund both annuity and life insurance contracts of both affiliated and unaffiliated Participating Insurance Companies; (b) material irreconcilable conflicts may arise from mixed and shared funding; and (c) the Board will monitor the Fund for any material conflicts and determine what action, if any, should be taken.

8. All reports received by the Board regarding potential or existing conflicts, and all Board action with respect to determining the existence of a conflict, notifying Participants of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

9. If and to the extent Rule 6e–2 and Rule 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested, then the Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 and Rule 6e–3(T), as amended, the Rule 6e–3, as adopted, to the extent such rules are applicable.

10. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of the Fund), and in particular each Fund will either provide for annual meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) (although the Funds are not within the trusts described in this section) as well as with Sections 16(a) and, if and when applicable, Section 16(b). Further, each Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

11. The Participants, at least annually, shall submit to the Board such reports, materials or data as the Board may reasonably request so that the Board may fully carry out the obligations imposed upon it by these stated conditions, and said reports, materials, and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participating Insurance Companies and Qualified Plans to provide these reports, materials, and data to the Board when it so reasonably requests shall be a contractual obligation of all Participating Insurance Companies and Qualified Plans under their agreements governing participation in the Funds.

12. In the event that a Qualified Plan ever should become an owner of 10 percent or more of the assets of a Fund, such Qualified Plan will execute a fund participation agreement with the applicable Fund. A Qualified Plan shareholder will execute an application with each of the Funds, including Future Funds, that contains an acknowledgement of this condition at the time of the Qualified Plan's initial purchase of shares of the Fund.

Conclusion

For the reasons stated above, Applicants believe that the requested exemptions, in accordance with the standards of Section 6(c), as appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12521 Filed 5–22–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 04/05–0018]

Investor's Equity, Inc.; Notice of Surrender of Licensee

Notice is hereby given that Investor's Equity, Inc., 1355 Peachtree Street, Atlanta, Georgia 30309 has surrendered its License to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (Act). Investor's Equity was licensed by the Small Business Administration on August 10, 1961.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender of the License was accepted on May 4, 1995, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 16, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–12571 Filed 5–22–95; 8:45 am]

BILLING CODE 8025–01–M

[License No. 02/02–5351]

Exim Capital Corporation

Notice is hereby given that Exim Capital Corporation (Exim), 241 Fifth Avenue, New York, New York 10016, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), in connection with the proposed financing of a small concern is seeking an exemption under Section 312 of the Act and Section 107.903 Conflicts of interest of the SBA Rules and Regulations (13 CFR 107.903 (1994)). An exemption may not be granted by SBA until Notices of this transaction have been published. Exim proposes to provide debt financing to KBJ Cleaners, Inc. (KBJ) located 6–01 Saddle River Road, Fairlawn, New Jersey. The financing is contemplated for use in the expansion of KBJ's existing operations and additional working capital.

The financing is brought within the purview of Section 107.903(b)(1) of the regulations because Mr. Byung Hyun An

and Ms. Chu Ja An, 100% shareholders of KBJ are the brother-in-law and sister of Mr. Victor Chun, President and shareholder of Exim.

Notice is further given that any person, not later than 15 days from the date of the publication of the Notice, submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, S.W., Washington, D.C. 20416.

A copy of this Notice shall be published, in accordance with Section 107.903(e) of the Regulations, in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: May 16, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–12572 Filed 5–22–95; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

1994–95 Advisory Council on Social Security; Meeting

AGENCY: Social Security Administration.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces a meeting of the 1994–95 Advisory Council on Social Security (the Council).

DATES: Friday, June 2, 1995, 9:00 a.m. to 5:00 p.m. and Saturday, June 3, 1995, 9:00 a.m. to 3:00 p.m.

ADDRESSES: The Carnegie Endowment for International Peace, 2400 N Street, N.W., Washington, D.C. 20037, (202) 862–7900.

FOR FURTHER INFORMATION CONTACT: By mail—Dan Wartonick, 1994–95 Advisory Council on Social Security, Suite 705, 1825 Connecticut Avenue, NW, Washington, DC 20009; By telephone—(202) 482–7117; By telefax—(202) 482–7123.

SUPPLEMENTARY INFORMATION:

I. Purpose

Under section 706 of the Social Security Act (the Act), the Secretary of Health and Human Services (the Secretary) appoints the Council every 4 years. The Council examines issues affecting the Social Security Old-Age, Survivors, and Disability Insurance (OASDI) programs, as well as the Medicare program and impacts on the Medicaid program, which were created under the Act.

In addition, the Secretary has asked the Council specifically to address the following:

- Social Security financing issues, including developing recommendations for improving the long-range financial status of the OASDI programs;
- General program issues such as the relative equity and adequacy of Social Security benefits for persons at various income levels, in various family situations, and various age cohorts, taking into account such factors as the increased labor force participation of women, lower marriage rates, increased likelihood of divorce, and higher poverty rates of aged women.

In addressing these topics, the Secretary suggested that the Council may wish to analyze the relative roles of the public and private sectors in providing retirement income, how policies in both sectors affect retirement decisions and the economic status of the elderly, and how the disability insurance program provisions and the availability of health insurance and health care costs affect such matters.

The Council is composed of 12 members in addition to the chairman: Robert Ball, Joan Bok, Ann Combs, Edith Fierst, Gloria Johnson, Thomas Jones, George Kourpias, Sylvester Schieber, Gerald Shea, Marc Twinney, Fidel Vargas, and Carolyn Weaver. The chairman is Edward Gramlich.

The Council met previously on June 24–25 (59 FR 30367), July 29, 1994 (59 FR 35942), September 29–30 (59 FR 47146), October 21–22 (59 FR 51451), November 18–19 (59 FR 55272), January 27 (60 FR 3416), February 10–11 (60 FR 5433), March 8–9 (60 FR 10091), March 10–11 (60 FR 10090), April 21–22 (60 FR 18419) and May 19–20 (60 FR 24961).

II. Agenda

The following topics will be presented and discussed:

- Options for ensuring the long-term financing of the Social Security program;
- Changes to Social Security benefits to ensure relative equity and adequacy; and
- Relative roles of the public and private sectors in providing retirement income.

The meeting is open to the public to the extent that space is available. Interpreter services for persons with hearing impairments will be provided. A transcript of the meeting will be available to the public on an at-cost-of duplication basis. The transcript can be ordered from the Executive Director of the Council.

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.803, Social Security-Retirement Insurance; 93.805, Social Security-Survivors Insurance)

Dated: May 17, 1995.

David C. Lindeman,

Executive Director, 1994–95 Advisory Council on Social Security.

[FR Doc. 95–12620 Filed 5–22–95; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF THE TREASURY

[Treasury Directive 16–25]

Efficiency, Effectiveness, and Equity in the Transfer of Federal Funds; Delegation of Authority

Dated: May 15, 1995.

1. *Delegation.* By the authority granted to the Fiscal Assistant Secretary by Treasury Order (TO) 101–05, this Directive delegates to the Commissioner, Financial Management Service, the authority to perform any duty or function of the Secretary prescribed or required pursuant to 31 U.S.C. 3335 and 6503, including the issuing of regulations which are binding on executive agencies and govern the timely disbursement of Federal funds and entering into agreements with States concerning transfers of Federal funds to States.

2. *Redelegation.* The Commissioner, Financial Management Service, may redelegate this authority in writing, and it may be exercised in the individual capacity and under the individual title of each official receiving such authority, except that regulations must have the approval of the Commissioner .

3. *Regulations.* The issuance of any regulations pursuant to this Directive shall be in accordance with Treasury Directive 28–01, ''Preparation and Review of Regulations.''

4. *Authorities.*

a. The Cash Management Improvement Act of 1990, Public Law 101–453, 104 Stat. 1058, as amended, codified at 31 U.S.C. 3335, 6501, and 6503.

b. TO 101–05, ''Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury.''

5. *Expiration.* This Directive shall expire three years from the date of issuance unless superseded or cancelled prior to that date.

6. *Office of Primary Interest.* Office of the Commissioner, Financial Management Service.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 95–12549 Filed 5–22–95; 8:45 am]

BILLING CODE 4810–25–P

Internal Revenue Service

[Delegation Order No. 175 (Rev. 3)]

Delegation of Authority

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Delegation of authority.

SUMMARY: The authority to determine that a plan amendment is reasonable and provides for only de minimis increases in the liabilities of the plan in accordance with section 412(f)(2)(A) of the Internal Revenue Code (Code) and section 304(b)(2)(A) of the Employee Retirement Income Security Act of 1974 (ERISA) has already been delegated to the Director, Employee Plans Division, with authority to redelegate. There is now delegated to the Director, Employee Plans Division, the additional authority to determine that a plan amendment is reasonable and provides for only de minimis increases in the liabilities of the plan in accordance with section 401(a)(3–3)(B)(ii) of the Code and section 204(i)(2)(A) of ERISA, with authority to redelegate, but not below Branch Chiefs, Employee Plans Division.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: John H. Turner, CP:E:EP:P:2, Room 6702, 1111 Constitution Avenue, NW., Washington, DC 20224, (202) 622–6214 (not a toll-free number).

Effective Date: May 19, 1995, Authority to Determine if Plan Amendment is Reasonable and Has De Minimis Effect on Plan Liability in Accordance with Section 412(f)(2)(A) of the Internal Revenue Code (Code) and Section 304(b)(2)(A) of the Employee Retirement Income Security Act (ERISA), or Section 401(a)(33)(B)(ii) of the Code and Section 204(i)(2)(A) of ERISA.

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order 150–10, there is hereby delegated to the Director, Employee Plans Division, the authority to determine that a plan amendment is reasonable and provides for only de minimis increases in the liabilities of the plan in accordance with section 412(f)(2)(A) of the Code and section 304(b)(2)(A) of ERISA or in accordance with section 401(a)(33)(B)(ii) of the Code and section 204(i)(2)(A) of ERISA.

The authority delegated herein may be redelegated, but not below Branch Chiefs, Employee Plans Division.

To the extent that the authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified.

Delegation Order No. 175 (Rev. 2), effective October 31, 1987, is superseded.

Dated: April 13, 1995.

Phil Brand,

Chief Compliance Officer.

[FR Doc. 95–12515 Filed 5–22–95; 8:45 am]

BILLING CODE 4830–01–U

Sunshine Act Meetings

Federal Register

Vol. 60, No. 99

Tuesday, May 23, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, May 25, 1995.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a record message containing the latest agenda information, call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway., Bethesda, MD 20207 (301 504-0800

Dated: May 19, 1995.

Sadye E. Dunn,

Secretary.

[FR Doc. 95-12660 Filed 5-19-95; 10:25 am]

BILLING CODE 6355-01-M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the June 8, 1995 regular meeting of the Farm Credit Administration Board (Board) will not be held and that a special meeting of the Board is scheduled for Thursday, June 15, 1995 at 10:00 a.m. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Date: May 19, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 95–12760 Filed 5–19–95; 3:25 pm]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 2:02 p.m. on Thursday, May 18, 1995, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Recommendations regarding an administrative enforcement proceeding.

Application of Savings Bank of Mendocino County, Ukiah, California, to assume the liability to pay deposits made in the Ukiah, California Branch of U.S. Bank of California, Sacramento, California.

Matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: May 19, 1995.

Federal Deposit Insurance Corporation.

Patti C. Fox,

Acting Deputy Executive Secretary.

[FR Doc. 95–12667 Filed 5–19–95; 10:38 am]

BILLING CODE 6714–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 22, 29, June 5, and 12, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 22

Wednesday, May 24

10:00 a.m.
Briefing on Part 1 Recommendations for National Performance Review Phase II (Public Meeting)
(Contact: Jack Roe, 301–415–1354)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Thursday, May 25

10:00 a.m.
Briefing on Operator Licensing Programs (Public Meeting)
(Contact: Bruce Boger, 301–415–1004)

Friday, May 26

10:00 a.m.
Briefing by Executive Branch (Closed—Ex. 1)

Week of May 29—Tentative

Thursday, June 1

10:00 a.m.
Briefing on Electricity Forecast From Energy Information Administration (EIA) Annual Energy Outlook (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
(Please Note: This item will be affirmed immediately following the conclusion of the preceding meeting.)
a. Kenneth G. Pierce (Shorewood, Illinois), Initial Decision (Vacating Staff Order), LBP–95–04, Docket Nos. 55–30662–EA, IA–94–007 (Tenative)
(Contact: Andrew Bates, 301–415–1963)

1:00 p.m.
Briefing by Executive Branch (Closed—Ex. 1)

2:00 p.m.
Briefing on Steam Generator Issues (Public Meeting)
(Contact: Brian Sheron, 301–415–2722)

Week of June 5—Tenative

Thursday, June 8

9:30 a.m.
Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)
(Contact: John Larkins, 301–415–7360)

11:00 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, June 9

9:00 a.m.
Briefing by DOE on Status of Multi-Purpose Canisters (MPC) (Public Meeting)

10:30 a.m.

Briefing by DOE on High Level Waste Program (Public Meeting)

Week of June 12—Tentative

Wednesday, June 14

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice.

TO VERIFY THE STATUS OF MEETING CALLS: (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system will also become available in the near future. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

* * * * *

Dated: May 19, 1995.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 95–12790 Filed 5–19–95; 3:25 pm]

BILLING CODE 7590–01–M

Federal Register

Tuesday
May 23, 1995

Part II

Department of the Treasury

Customs Service

19 CFR Part 10 et al.

Rules of Origin for Textile and Apparel Products; Proposed Rule

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 12 and 102

RIN 1515–AB71

Rules of Origin for Textile and Apparel Products

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to implement the provisions of section 334 of the Uruguay Round Agreements Act (''the Act'') regarding the country of origin of textile and apparel products. Except for the purpose of identifying products of Israel, the proposed rules would govern the determination of the country of origin of imported textile and apparel products for purposes of laws enforced by the Customs Service. The proposed rules also implement the provisions of section 334 of the Act regarding the treatment of components that are cut to shape in the United States from foreign fabric, exported for assembly, and returned to the United States. The document also implements previously-enacted provisions regarding the treatment of articles assembled or produced in a Caribbean Basin Initiative beneficiary country wholly from U.S.-produced components, materials or ingredients.

DATES: Comments must be received on or before June 22, 1995.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, U.S. Customs Service, Franklin Court, 1301 Constitution Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, N.W., Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Phil Robins, Office of Regulations and Rulings (202–482–7029).

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1994, President Clinton signed into law the Uruguay Round Agreements Act (''the Act''), Public Law 103–465, 108 Stat. 4809. Subtitle D of Title III of the Act deals with textiles and includes section 334 (codified at 19 U.S.C. 3592) which concerns rules of origin for textile and apparel products.

Paragraph (a) of section 334 provides that the Secretary of the Treasury shall prescribe rules implementing the principles contained in paragraph (b) for determining the origin of ''textiles and apparel products''. Paragraph (a) further provides that such rules must be promulgated in final form not later than July 1, 1995.

Paragraph (b) of section 334 incorporates the following provisions: (1) For purposes of the customs laws and the administration of quantitative restrictions and except as otherwise provided for by statute, general rules for determining when a ''textile or apparel product'' originates in a country, territory, or insular possession, and is the growth, product, or manufacture of that country, territory, or insular possession; (2) special origin rules for goods classifiable under certain specified tariff headings and subheadings; (3) a ''multicountry rule'' for determining origin when the origin of a good cannot be determined under the preceding provisions of paragraph (b); (4) special rules governing the treatment of components that are cut to shape in the United States from foreign fabric, exported for assembly, and returned to the United States; and (5) an exception to the application of section 334 that specifically provides for the continued application of the administrative practices that were applied immediately before the enactment of the Act to determine the origin of textile and apparel products from Israel, unless such practices are modified by the mutual consent of the United States and Israel.

Paragraph (c) of section 334 provides that section 334 shall apply to goods entered, or withdrawn from warehouse, for consumption on or after July 1, 1996. Paragraph (c) further provides that section 334 shall not apply to goods entered or withdrawn from warehouse on or before January 1, 1998, that are covered by contracts of sale which were entered into, with all material terms fixed, before July 20, 1994, and which are filed, with an accompanying certification, with the Commissioner of Customs within 60 days after the date of the enactment of the Act. On January 27, 1995, Customs published in the **Federal Register** (60 FR 5457) a notice setting forth the procedures for filing such contracts and certifications.

The purpose of this document is to set forth for public comment proposed regulations implementing the principles contained in section 334(b) of the Act, with a view to promulgation of final regulations by July 1, 1995, as mandated by section 334(a) of the Act.

Discussion of Proposed Rules

On January 3, 1994, Customs published T.D. 94–4 in the **Federal Register** (59 FR 110) setting forth interim regulations for determining the origin of goods from Canada and Mexico other than for the purposes of determining eligibility for preference under the North American Free Trade Agreement (NAFTA). T.D. 94–4 set forth these interim rules as a new Part 102 of the Customs Regulations (19 CFR Part 102), entitled ''Rules of Origin'', and also set forth consequential conforming interim amendments to existing sections within Parts 12 and 134 of the Customs Regulations (19 CFR Parts 12 and 134). These interim regulations were made immediately effective for trade from Canada and Mexico pursuant to Annex 311 of the NAFTA. No final action on these interim regulatory amendments has been taken.

Also on January 3, 1994, Customs published a document in the **Federal Register** (59 FR 141) that proposed to amend § 102.0 of the interim regulations published as T.D. 94–4 so that the Part 102 provisions would also apply to country of origin determinations ''for purposes of the Customs and related laws and the navigation laws of the United States'' for goods from all countries. This document also proposed to amend various provisions within Parts 4, 10, 12, 134 and 177 of the Customs Regulations (19 CFR Parts 4, 10, 12, 134 and 177) to ensure that the rules contained in Part 102 would control wherever language requiring a country of origin determination appears in those other regulatory provisions. Final action also has not been taken on these proposed regulatory amendments.

In keeping with the intended function of Part 102 as the repository for origin rules under the uniform rules of origin principle reflected in the January 3, 1994, proposal mentioned above, Customs proposes in this document to implement those provisions of section 334(b) of the Act that have broad application under the terms of the statute by amending the Part 102 provisions and by amending other regulatory provisions as necessary to conform to those Part 102 changes. With regard to the remaining provisions of section 334(b) (that is, the special rules governing the treatment of components that are cut to shape in the United States from foreign fabric, exported for assembly, and returned to the United States) and with one exception as discussed further below, Customs proposes to implement those provisions by amending that portion of Part 10 of the Customs Regulations (19 CFR Part

10) that concerns articles assembled abroad with United States components because the subject provisions of section 334(b) are more appropriate to that context. In addition, it is proposed to make a number of amendments to existing regulatory provisions to ensure that those existing provisions will be consistent with the new regulatory proposals implementing section 334(b) of the Act. The proposed amendments are discussed in more detail below.

A. Proposed Amendments to Part 10

Section 334(b)(4)(A) of the Act

Section 334(b)(4)(A) of the Act provides that the value of a component that is cut to shape (but not to length, width, or both) in the United States from foreign fabric and exported to another country, territory, or insular possession for assembly into an article that is then returned to the United States: (1) Shall not be included in the dutiable value of such article; and (2) may be applied toward determining the percentage referred to in General Note 7(b)(i)(B) of the Harmonized Tariff Schedule of the United States (HTSUS), subject to the limitation provided in that note.

Subheading 9802.00.80, HTSUS, provides a duty exemption for fabricated components of U.S. origin that are assembled abroad and returned to the United States. Under current textile rules of origin, textile components that are cut to shape in the United States from foreign fabric qualify as U.S.-origin fabricated components under subheading 9802.00.80, HTSUS. The effect of section 334(b)(4)(A) of the Act is to continue the duty exemption for those components, notwithstanding the fact that under the origin principles in section 334(b) of the Act such components would no longer qualify as products of the United States (see the ''cutting versus assembly'' discussion in connection with the proposed amendments to Part 102 below). In addition, section 334(b)(4)(A) in effect continues the present practice of allowing the value of such cut-to-shape textile components to be applied toward the 35 percent value-content requirement, up to the 15 percent maximum limitation for materials produced in the United States, for purposes of the Caribbean Basin Initiative (CBI) duty-free program established by the Caribbean Basin Economic Recovery Act, as amended (19 U.S.C. 2701 *et seq.*), and reflected in General Note 7, HTSUS.

Although section 334(b)(4)(A) of the Act is a separate statutory provision and does not amend or otherwise affect subheading 9802.00.80, HTSUS, Customs believes that the references to ''component'' and ''assembly'' in the Act were intended to mirror the concepts of, including the types of operations traditionally permitted under, subheading 9802.00.80, HTSUS. Accordingly, Customs believes that the appropriate place for regulatory implementation of this aspect of the Act would be following the existing Part 10 regulations applicable to subheading 9802.00.80, HTSUS, because some of those existing regulatory provisions appear to be equally relevant for purposes of this provision of the Act. Therefore, Customs proposes to add a new § 10.25 (19 CFR 10.25) that would reflect the relevant terms of section 334(b)(4)(A) of the Act and that would also provide for the applicability of certain of those existing regulatory standards and procedures (for example, the U.S. component valuation principles, the assembly and incidental operations principles, and the documentation requirements).

With regard to the second aspect of section 334(b)(4)(A) of the Act, which allows the value of textile components cut to shape in the United States to be applied toward the 35 percent value-content requirement under the CBI duty-free program, Customs proposes to reflect this provision in the context of the CBI implementing regulations by adding a new paragraph (d) to § 10.195 (19 CFR 10.195). Although modeled on present paragraph (c) of that section, the following particular points are noted regarding this new paragraph (d): (1) The proposed text mentions the percentage ''referred to in paragraph (c)'' (that is, the 15 percent maximum attributable to U.S. materials) rather than the percentage referred to in paragraph (a) (that is, the overall 35 percent value-content requirement), in order to clarify that the new allowance operates as part of, or an alternative to, but not in addition to, the pre-existing 15 percent allowance for U.S.-produced materials; and (2) contrary to present § 10.195(c), which refers to materials produced in the ''customs territory of the U.S. (other than the Commonwealth of Puerto Rico)'' and thus reflects the specific terms of the CBI statute (19 U.S.C. 2703(a)(1)), the text of this new § 10.195(d) refers to a textile component that is cut to shape in the ''U.S. (including the Commonwealth of Puerto Rico)'', because Customs believes that the reference to the ''United States'' in section 334(b)(4)(A) of the Act was intended to cover Puerto Rico.

Section 334(b)(4)(B) of the Act

Section 334(b)(4)(B) of the Act provides that no article (except a textile or apparel product) assembled in whole of components described in section 334(b)(4)(A) of the Act, or of such components and components that are products of the United States, in a CBI beneficiary country shall be treated as a foreign article, or as subject to duty, if the components after exportation from the United States, and the article itself before importation into the United States, do not enter into the commerce of any foreign country other than such a beneficiary country.

U.S. Note 2(b), Subchapter II, Chapter 98, HTSUS, provides that no article (except a textile article, apparel article, or petroleum, or any product derived from petroleum, provided for in heading 2709 or 2710) may be treated as a foreign article or as subject to duty if the article is assembled or processed in a CBI beneficiary country in whole of fabricated components that are a product of the United States or if the article is processed in a CBI beneficiary country in whole of ingredients (other than water) that are a product of the United States, provided that neither the fabricated components, materials or ingredients after exportation from the United States, nor the article itself before importation into the United States, enters the commerce of any foreign country other than a CBI beneficiary country. The effect of section 334(b)(4)(B) of the Act is to continue this Note 2(b) treatment for textile and apparel articles which would meet the requirements of the Note but for the fact that, under the origin principles in section 334(b) of the Act, components cut to shape in the United States from foreign fabric would no longer qualify as products of the United States.

Customs notes that the provisions of Note 2(b) discussed above have not been implemented in the Customs Regulations. Accordingly, based on the same rationale stated above regarding the addition of new § 10.25 to implement section 334(b)(4)(A) of the Act, Customs proposes to add a new § 10.26 (19 CFR 10.26) which would cover both Note 2(b) and the provisions of section 334(b)(4)(B) of the Act. To reflect that these are discrete statutory provisions, paragraph (a) of the proposed new section covers only Note 2(b) and paragraph (b) thereof covers only the provisions of section 334(b)(4)(B) of the Act. Paragraph (c) sets forth definitions or rules for purposes of the section and includes, as subparagraph (c)(3), a rule regarding

entry into the commerce (of a non-beneficiary country) which is modeled on the ''imported directly'' principle contained in § 10.193 of the CBI implementing regulations.

Customs proposes to define the terms ''textile article'', ''apparel article'', and ''textile or apparel product'' for purposes of new § 10.26 more narrowly than the term ''textile or apparel product'' is defined for purposes of the new Part 102 provisions (see the below discussion of the proposed Part 102 amendments in regard to the latter). As noted above, § 10.26(a) would implement the provisions of U.S. Note 2(b), Subchapter II, Chapter 98, HTSUS, and § 10.26(b) would implement section 334(b)(4)(B) of the Act. With regard to the scope of the terms ''textile article'' and ''apparel article'' as used in Note 2(b), in T.D. 91–88, 25 Cust.Bull. 226, Customs issued an interpretive rule which concluded that articles (other than footwear and parts of footwear) classifiable in HTSUS provisions that have a textile and apparel category number designation should be considered ''textile'' and ''apparel'' articles for purposes of Note 2(b). Footwear and parts of footwear were determined in this interpretive rule not to constitute ''textile'' and ''apparel'' articles under Note 2(b). As indicated above, Customs believes that the primary purpose of section 334(b)(4)(B) of the Act is to preserve the current duty exemption granted under Note 2(b) for articles assembled abroad from components cut to shape in the United States from foreign fabric. For example, under Customs current interpretation of Note 2(b), foreign fabric components cut to shape in the United States that are assembled in a CBI beneficiary country into a footwear upper or assembled into gloves classifiable in a provision that does not have a textile quota category number have been considered to be outside the scope of the articles excluded from this duty exemption. If, however, the term, ''textile or apparel product'' as used in § 334(b)(4)(B) of the Act is interpreted to cover the same articles covered by the term ''textile or apparel product'' as used elsewhere in section 334(b) of the Act [which include footwear and parts thereof and many articles that are not classified in quota provisions], Customs would fail to give effect to the legislative purpose behind this provision. Indeed, under such an interpretation this provision would be nullified by the exception contained therein, since no good can be ''assembled in whole of components [cut to shape from foreign fabric in the United States] * * *'' and still be considered to fall outside the scope of goods excluded from the duty-free treatment allowed under the provision in question. Therefore, solely for purposes of section 334(b)(4)(B) of the Act, it is proposed to define the term ''textile or apparel product'' to reflect the same interpretation previously given by Customs to the terms ''textile article'' and ''apparel article'' under Note 2(b).

B. Proposed Amendments to Part 102

The proposed amendments to Part 102 set forth in this document specifically implement sections 334(b)(1)–(3) and (5) of the Act. These proposed changes affect Part 102 and other provisions of the Customs Regulations.

The proposed amendments to Part 102 set forth in this document represent the view of Customs on the application of the principles contained in sections 334(b) (1)–(3) and (5) and are intended to be used in all determinations of whether a textile good is the product of a particular country, territory, or possession, except where other statutory authority provides for application of a different origin standard. Accordingly, starting on July 1, 1996, the final regulations resulting from these proposed regulatory texts would take precedence over any other conflicting provisions in Part 102 or elsewhere in the Customs Regulations but would not control origin determinations regarding textile and apparel products of Israel.

Scope of ''Textile or Apparel Product''

Section 334(b) of the Act sets forth principles governing the determination of the origin of ''a textile or apparel product'' for purposes of laws enforced by Customs. However, nowhere in the legislation is ''textile or apparel product'' defined. Customs believes that the principles in section 334(b) were intended to be applicable to essentially the same goods to which Customs has applied the principles of § 12.130 of the Customs Regulations (19 CFR 12.130).

Section 12.130, which Customs currently follows in determining the country of origin of textile products for most purposes, specifically states that its provisions cover textiles and textile products subject to section 204, Agricultural Act of 1956, as amended (7 U.S.C. 1854), that is, merchandise which is the subject of an international textile agreement. Customs has interpreted this to include all goods classifiable in Section XI of the HTSUS and all goods classifiable outside Section XI under a provision that has a textile and apparel category number designation. However, Customs has ruled that while the provisions of § 12.130 are specifically applicable only for international textile agreement purposes, *the principles* of § 12.130 are applicable to all textiles and textile products for all purposes (*i.e.*, quota, marking and duty assessment).

The United States is a signatory to the Agreement Establishing the World Trade Organization (the WTO Agreement) and to the Agreement on Textiles and Clothing annexed thereto. In the Annex to the Agreement on Textiles and Clothing, textile and clothing products are defined by means of a listing of subheadings in the international Harmonized Commodity Description and Coding System, or Harmonized System (which has been implemented in the United States in the HTSUS). The subheadings listed in the Annex to the Agreement on Textiles and Clothing include some provisions which presently do not have a textile and apparel category number currently associated with them. They also do not include every provision contained in Harmonized System/HTSUS Section XI (which covers textiles and textile articles).

Customs notes that sections 101(d)(4), 331 and 332 of the Act specifically refer to the Agreement On Textiles And Clothing of the WTO Agreement. Moreover, section 332 of the Act amended the second sentence of section 204 of the Agricultural Act of 1956 to specifically authorize the President to issue, in order to carry out a multilateral agreement (''including but not limited to the Agreement on Textiles and Clothing'' of the WTO Agreement), regulations governing the entry or withdrawal from warehouse of articles covered by such an agreement that are the products of countries which are not parties to the agreement or to which the United States does not apply the agreement.

Customs believes that, in order to reflect the overall context in which section 334 of the Act was enacted, the regulations implementing the principles of section 334(b) must, with slight technical modifications, have reference to the subheadings listed in the Annex to the Agreement on Textiles and Clothing of the WTO Agreement. Customs believes that, in the absence of a specific statutory definition, Customs is required to determine the scope of section 334. In doing this, Customs has considered the wording of section 334, its development, and the context in which it was enacted.

Accordingly, it is the position of Customs that the regulations implementing section 334(b) of the Act should apply to (1) all goods classifiable in Section XI of the HTSUS and (2) with

one exception, all goods classifiable under any subheading outside Section XI that is listed in the Annex to the Agreement on Textiles and Clothing of the WTO Agreement. This will avoid any possibility of interpreting ''apparel product'' to include apparel products consisting entirely of plastic or other nontextile component parts, which clearly are not intended to be covered by section 334 of the Act.

The one exception to the subheadings listed in the WTO Agreement concerns subheading 9113.90 which provides for watch straps, watch bands, watch bracelets, and parts thereof. That subheading is further broken down in the HTSUS into two 8-digit subheadings, only one of which, subheading 9113.90.40, provides for goods of textile materials. Customs believes that it would be inappropriate to treat clearly nontextile goods as falling within the scope of ''textile or apparel article'' as used in section 334(b) of the Act. Accordingly, the definition of ''textile or apparel product'' in the proposed Part 102 regulatory texts set forth in this document includes a reference to subheading 9113.90.40 but does not refer to subheading 9113.90.80 which covers the remainder of the goods falling under subheading 9113.90.

Customs recognizes that, by referring to the Agreement on Textiles and Clothing, the proposed rules of origin in this document will cover some goods not presently considered to be within the purview of § 12.130 (for example, wadding and gauze impregnated or coated with medicinals, umbrellas, automobile seat belts, parachutes, watch straps, doll clothing).

General Approach in Proposed Rules

Customs proposes to implement the section 334(b) origin principles within Part 102 as a new § 102.21. This proposed new § 102.21 includes an applicability provision (paragraph (a)) to clarify the scope of the section, various definitions of terms used in the section (paragraph (b)), five general origin rules (paragraph (c)) which apply in a hierarchical and sequential manner, a special provision for sets (paragraph (d)), and specific change in tariff classification rules (paragraph (e)) which apply for purposes of the second general origin rule. The proposed regulatory texts, and the section 334(b) principles which they implement, are discussed in more detail below.

Proposed § 102.21 would supersede those provisions of §§ 102.1 through 102.20 for those products that fall within the scope of § 102.21, except for the purpose of identifying products of Israel for which §§ 102.1 through 102.20 will remain in effect. Customs expects that Part 102 will have been made effective for all imports prior to July 1, 1996, when § 102.21 will become effective.

Wholly Obtained or Produced

The first § 102.21 general origin rule (paragraph (c)(1)) provides that the country of origin of a textile or apparel product is the single country, territory, or insular possession in which the good was wholly obtained or produced. This rule sets forth the principle contained in section 334(b)(1)(A) of the Act. The definition of ''a good wholly obtained or produced'' contained in present § 102.1(g) would apply for purposes of this proposed rule.

Change in Tariff Classification

Where a textile or apparel product is not wholly obtained or produced in a single country, territory, or insular possession, the second general origin rule (paragraph (c)(2)) provides that the country of origin of such a good is the single country, territory, or insular possession in which each material incorporated in the good underwent an applicable change in tariff (HTSUS) classification specified in paragraph (e). The proposed tariff shift rules contained in paragraph (e) reflect the views of Customs on the results obtained when the principles of section 334(b) of the Act are applied to specific textile goods. Because Customs believes that the tariff shift approach represents the most transparent and predictable method for determining origin under the principles contained in section 334(b) of the Act, an attempt has been made to reflect the application of those principles within the proposed tariff shift rules to the greatest extent practicable.

Assembly Versus Cutting

Under the rulings presently issued by Customs, the country of origin of some textile products, particularly apparel products, is often determined on the basis of where the components thereof were cut to shape. Since promulgation of § 12.130 in 1984, it has been suggested to Customs that cutting components from fabric is an extremely minor manufacturing operation and thus should not determine origin. The position of Customs in regard to cutting, however, was not predicated on the time or expense involved in that operation. Rather, it was based on the physical change of the fabric and the result of the cutting operation—a change from material which could be used for a number of different purposes to a garment part that was dedicated to a specific use in a specific type of garment.

Under section 334(b)(1)(D) of the Act, which applies to all goods not covered by the preceding provisions of paragraph (b)(1) other than goods covered by the special rules of section 334(b)(2), a textile or apparel product has its origin in the country, territory, or possession in which it is *wholly assembled* from its component pieces. In addition, the ''multicountry rule'' of section 334(b)(3) of the Act discussed below refers to the place in which the most important *assembly* or manufacturing process occurs or the last place in which important *assembly* or manufacturing occurs.

In view of the overall approach taken in section 334(b) of the Act, including the fact that assembly is mentioned in three contexts as a process conferring origin while no mention whatsoever is made of cutting, and in view of its historical context, Customs believes that section 334(b) was intended to eliminate cutting from playing any role in determining the country of origin of textile and apparel products. Accordingly, many of the tariff shift rules contained in paragraph (e) of proposed new § 102.21 have been drafted to reflect this consideration.

Fabric-Making Process

Section 334(b)(1)(C) of the Act provides that if the product is a fabric, its country of origin is the country, territory, or insular possession in which ''the constituent fibers, filaments, or yarns are woven, knitted, needled, tufted, felted, entangled, or transformed by any other fabric-making process''. In view of the wording of this statutory provision, Customs proposes to define the term ''fabric-making process'' for purposes of proposed new § 102.21 as including only processes which advance basic materials (fibers, yarns, etc.) into a fabric, thereby excluding any process which starts with a fabric and ends up with a different type of fabric. Because of the existence of spunbonded fabrics, which are produced by extruding polymers directly into fabric form, the term ''polymers'' has been included in the proposed definition. In addition, since twine, cordage, or rope may be used to make a textile fabric (for example, a fabric of heading 5608), those terms have also been included in the proposed definition.

Scope of ''Wholly Assembled''

The ''wholly assembled'' principle of section 334(b)(1)(D) of the Act as discussed above has been assimilated into the tariff shift rules under paragraph (e) of proposed § 102.21. In

addition, because the tariff shift rules will not always yield an origin result, this principle has also been incorporated within the third general origin rule under paragraph (c) of proposed § 102.21 with specific reference to goods not knit to shape which are not covered by the special rules of section 334(b)(2) of the Act and thus remain subject to the section 334(b)(1)(D) principle. For purposes of § 102.21, Customs proposes a definition of ''wholly assembled'' which would embody the following principles:

1. The entire good must be assembled, and the assembly must take place in a single country, territory, or insular possession. This is intended to reflect the concept of ''wholly'' and to ensure, consistent with the overall aim of the section 334(b) principles, the attribution of a good to only one country, territory, or insular possession.

2. The assembly must, at a minimum, involve two separate components that are combined to form the good. Section 334(b)(1)(D) of the Act uses the terminology ''wholly assembled * * * from its component pieces.'' Since the statute uses the plural ''pieces'', Customs believes that Congress intended that the assembled good incorporate more than one previously separate component. Accordingly, while it may be argued that folding a fabric over on itself and stitching that fold in place is an assembly, Customs does not believe that such a process constitutes an assembly ''from its component pieces.'' Also, Customs will not normally consider materials used to join components (for example, sewing thread, rivets) as falling within the purview of the term ''components'' as that term is used in this context.

3. Minor attachments and embellishments (for example, appliques, beads, spangles, embroidery, buttons) which do not appreciably affect the identity of the good are not required to be added to the good in the country, territory, or insular possession where the ''component pieces'' are assembled into the good in order for that good to qualify as ''wholly assembled'' in a single country, territory, or insular possession. This principle is included in the proposed definition because, once assembled, the product exists whether or not minor attachments and embellishments are attached and because Customs does not believe that Congress intended that a simple process, such as attaching a few buttons or beads to a good, should be allowed to nullify the assembly rule of origin principle. Moreover, Customs notes that the origin result would be the same even if the addition of minor attachments and embellishments were to disqualify the good from being ''wholly assembled'' in one country, territory, or insular possession. For example, where fabric from Country A is cut in Country B, all the cut pieces are assembled into a shirt in Country C, and the buttons are attached to the shirt in Country D, even if it were argued that the shirt does not qualify as ''wholly assembled'' in Country C, that shirt would still have its origin in Country C by application of the first ''multicountry rule'' under section 334(b)(3) of the Act because Country C is the country in which the most important assembly or manufacturing process occurs. For essentially the same reasons, the proposed definition of ''wholly assembled'' also contains an exception for minor subassemblies (for example, collars, cuffs, plackets, pockets).

Special Rules for Certain HTSUS Headings and Subheadings

Section 334(b)(2)(A) of the Act provides that the origin of a good classifiable under one of the HTSUS provisions enumerated therein ''shall be determined under subparagraph (A), (B), or (C) of paragraph (1), as appropriate''. Subparagraph (A) provides for products ''wholly obtained or produced'' in a country, territory, or possession. Subparagraph (B) provides rules for determining the country of origin of yarn, thread, twine, cordage, rope, cable, and braiding. Subparagraph (C) sets out a rule of origin for fabric.

The words ''as appropriate'' in section 334(b)(2)(A) of the Act appear to have created some confusion regarding the application of that statutory provision. In this regard it has been suggested to Customs, for example, that because neither a bed sheet nor a comforter (each of which is classifiable in a tariff provision listed in section 334(b)(2)(A)) is a fabric, it would not be appropriate to determine the origin of the sheet or comforter by resorting to subparagraph (1)(C) which on its face covers only fabric. Customs does not agree with this suggested interpretation because all of the HTSUS provisions listed in section 334(b)(2)(A) cover goods that have been advanced beyond the form of (in other words, have been made from) yarn, thread, etc., or fabric. Accordingly, the suggested interpretation would make a nullity of section 334(b)(2)(A).

Customs believes that the words ''as appropriate'' in section 334(b)(2)(A) of the Act are simply intended to alert the reader to use common sense. For example, when determining the origin of a bed sheet cut and finished in Country B from fabric woven in Country A, the appropriate rule is subparagraph (1)(C) which concerns the origin of fabrics. Subparagraph (1)(A) cannot be used because the sheet was not wholly produced in a single country, and subparagraph (1)(B), which concerns yarns, twine, etc., obviously is not applicable because the sheet is made from a fabric. The proposed tariff shift rules set forth in this document for goods classified in the HTSUS provisions enumerated in section 334(b)(2)(A) of the Act have been drafted to reflect this position.

Knit-To-Shape Garments

Section 334(b)(2)(B) of the Act provides that ''a textile or apparel product which is knit to shape'' shall be considered to originate in the country, territory, or insular possession in which it is knit. This statutory provision is reflected in proposed § 102.21 both under the third general origin rule (paragraph (c)(3)) and in the tariff shift rules under paragraph (e).

While § 12.130(e)(2)(iii) of the Customs Regulations presently addresses the assembly of ''knit-to-shape component parts'', section 334(b)(2)(B) of the Act applies the knit-to-shape concept to the imported article as a whole. Because of the wording used in § 12.130, the present position of Customs is that if a garment contains at least one major knit-to-shape component, the presence of that component will preclude the assembly of that garment from conferring origin.

Customs believes that the phrase ''knit to shape'' should be defined for purposes of proposed new § 102.21. Accordingly, focusing on the entire article (as opposed to the components comprising that article), Customs proposes to define the phrase ''knit to shape'' as referring to a good with an exterior surface wholly comprised of fabric knitted directly to the shape used in the good (except for neck and front opening trim), with no consideration being given to minor cutting or trimming. This means that if an article consists of more than one component, *all* exterior components (except for neck and front opening trim) must be formed by knitting into the general shape that they are found in the article in order for the knitting to confer origin.

Multicountry Rule

In some cases the proposed tariff shift rules were drafted to reflect an origin result that would be reached for specific goods by application of the ''multicountry rule'' contained in section 334(b)(3) of the Act. The ''multicountry rule'' provides that where the origin of a good cannot be determined under the general or special

rules set forth in section 334(b)(1) or (2) of the Act, the good shall be considered to have its origin either in the country, territory, or insular possession in which the most important assembly or manufacturing process occurs or (in effect, if two or more equally important assembly or manufacturing processes are attributable to different countries, territories or insular possessions) in the last country, territory, or insular possession in which important assembly or manufacturing occurs. The two parts of this ''multicountry rule'' are also set forth separately as the proposed fourth (paragraph (c)(4)) and fifth (paragraph (c)(5)) general origin rules in recognition of the fact that the tariff shift rules will not always yield an origin result.

Treatment of Sets

A set is two or more articles, each classifiable under a different tariff heading, which, when packaged together, meet a particular need or carry out a specific activity. As such, the entire set is usually classifiable as a unit under a single tariff subheading. In T.D. 91–7, 25 Cust. Bull. 7 (1991), Customs determined that each component not substantially transformed as a result of its inclusion in a set must be individually marked to indicate its own country of origin. This marking requirement is applicable to all goods, not just textiles. In addition, in order to prevent circumvention of international textile agreements, Customs, at the direction of the Committee for the Implementation of Textile Agreements, has for years been requiring that textile components of a set be broken out on a Customs Form 7501 (Customs Entry/Entry Summary) to meet quota/visa requirements.

Section 334(b) of the Act, and the legislative history relating thereto, are silent on the determination of the country of origin of sets. Customs believes that this omission was not inadvertent and that Congress intended that the present practice of Customs continue for purposes of applying the origin principles contained in section 334(b). Accordingly, Customs proposes to include in new § 102.21 a paragraph (d) to provide that in the case of goods which are classifiable as sets and which include one or more components that are textile or apparel products, the country, territory, or insular possession of origin of each such textile or apparel component shall be determined separately under the rules set forth in paragraph (c) of § 102.21.

Comments

Before adopting the proposed amendments as a final rule, consideration will be given to any written comments (preferably in triplicate) timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Franklin Court, 1099 14th Street, NW., Suite 4000, Washington, DC.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Paperwork Reduction Act

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC. 20503. A copy should also be sent to Customs at the address set forth previously.

The collection of information in these proposed regulations is in § 10.25. This information is used by Customs to determine whether articles assembled abroad from textile components cut to shape in the United States from foreign fabric are entitled to reduced or duty-free treatment under section 334(b)(4)(A) of the Act or under the CBI. The likely respondents are business organizations including importers, exporters, and manufacturers.

Estimated total annual reporting and/or recordkeeping burden: 750 hours.

Estimated average annual burden per respondent/recordkeeper: 1.5 hours.

Estimated number of respondents and/or recordkeepers: 500.

Estimated annual frequency of responses: 2,000.

Drafting Information: The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

19 CFR Part 12

Customs duties and inspection, Labeling, Marking, Reporting and recordkeeping requirements, Textiles and textile products.

19 CFR Part 102

Customs duties and inspections, Imports, Reporting and recordkeeping requirements, Rules of origin, Trade agreements.

Proposed Amendments to the Regulations

For the reasons stated above, it is proposed to amend Parts 10, 12 and 102, Customs Regulations (19 CFR Parts 10, 12 and 102), as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for Part 10 and the specific authority citations for §§ 10.191–10.198 continue to read, and a specific authority citation for §§ 10.25 and 10.26 is added to read, as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624;

* * * * *

Sections 10.25 and 10.26 also issued under 19 U.S.C. 3592;

* * * * *

Sections 10.191–10.198 also issued under 19 U.S.C. 2701 *et seq.*;

* * * * *

2. Sections 10.25 and 10.26 are added under the heading ''Articles assembled abroad with United States components'' to read as follows:

§ 10.25 Textile components cut to shape in the United States and assembled abroad.

Where a textile component is cut to shape (but not to length, width, or both) in the United States from foreign fabric and exported to another country, territory, or insular possession for assembly into an article that is then returned to the United States and entered, or withdrawn from warehouse, for consumption on or after July 1, 1996, the value of the textile component shall not be included in the dutiable value of

the article. For purposes of determining whether a reduction in the dutiable value of an imported article may be allowed under this section:

(a) The terms ''textile component'' and ''fabric'' have reference only to goods covered by the definition of ''textile or apparel product'' set forth in § 102.21(b)(4) of this chapter;

(b) The operations performed abroad on the textile component shall conform to the requirements and examples set forth in § 10.16 insofar as they may be applicable to a textile component; and

(c) The valuation and documentation provisions of §§ 10.17, 10.18, 10.21 and 10.24 shall apply.

§ 10.26 Articles assembled or processed in a beneficiary country in whole of U.S. components or ingredients; articles assembled in a beneficiary country from textile components cut to shape in the United States.

(a) No article (except a textile article, apparel article, or petroleum, or any product derived from petroleum, provided for in heading 2709 or 2710, Harmonized Tariff Schedule of the United States (HTSUS)) shall be treated as a foreign article or as subject to duty:

(1) If the article is assembled or processed in a beneficiary country in whole of fabricated components that are a product of the United States; or

(2) If the article is processed in a beneficiary country in whole of ingredients (other than water) that are a product of the United States; and

(3) Neither the fabricated components, materials or ingredients after their exportation from the United States, nor the article before its importation into the United States, enters into the commerce of any foreign country other than a beneficiary country.

(b) No article (except a textile or apparel product) entered, or withdrawn from warehouse, for consumption on or after July 1, 1996, shall be treated as a foreign article or as subject to duty:

(1) If the article is assembled in a beneficiary country in whole of textile components cut to shape (but not to length, width, or both) in the United States from foreign fabric; or

(2) If the article is assembled in a beneficiary country in whole of both textile components described in paragraph (b)(1) and components that are products of the United States; and

(3) Neither the components after their exportation from the United States, nor the article before its importation into the United States, enters into the commerce of any foreign country other than a beneficiary country.

(c) For purposes of this section:

(1) The terms ''textile article'', ''apparel article'', and ''textile or apparel product'' cover all articles, other than footwear and parts of footwear, that are classifiable in an HTSUS subheading which carries a textile and apparel category number designation;

(2) The term ''beneficiary country'' has the meaning set forth in § 10.191(b)(1); and

(3) A component or an article shall be deemed to have not entered into the commerce of any foreign country other than a beneficiary country if:

(i) The component was shipped directly from the United States to a beneficiary country, or the article was shipped directly to the United States from a beneficiary country, without passing through the territory of any non-beneficiary country; or

(ii) Where the component or article passed through the territory of a non-beneficiary country while en route to a beneficiary country or the United States:

(A) The invoices, bills of lading, and other shipping documents pertaining to the component or article show a beneficiary country or the United States as the final destination and the component or article was neither sold at wholesale or retail nor subjected to any processing or other operation in the non-beneficiary country; or

(B) The component or article remained under the control of the customs authority of the non-beneficiary country and was not subjected to operations in that non-beneficiary country other than loading and unloading and activities necessary to preserve the component or article in good condition.

3. In § 10.195, paragraphs (d) and (e) are redesignated as paragraphs (e) and (f) respectively and a new paragraph (d) is added to read as follows:

§ 10.195 Country of origin criteria.

* * * * *

(d) *Textile components cut to shape in the U.S.* The percentage referred to in paragraph (c) of this section may be attributed in whole or in part to the cost or value of a textile component that is cut to shape (but not to length, width, or both) in the U.S. (including the Commonwealth of Puerto Rico) from foreign fabric and exported to a beneficiary country for assembly into an article that is then returned to the U.S. and entered, or withdrawn from warehouse, for consumption on or after July 1, 1996. For purposes of this paragraph, the terms ''textile component'' and ''fabric'' have reference only to goods covered by the definition of ''textile or apparel product'' set forth in § 102.21(b)(4) of this chapter.

* * * * *

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for Part 12 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.130 and 12.131 also issued under 7 U.S.C. 1854;

* * * * *

§ 12.130 [Amended]

2. In § 12.130:

a. The last sentence of paragraph (b) is amended by adding after ''Mexico'' the words '', and the origin of textile and apparel products covered by § 102.21 of this chapter,'';

b. The last sentence of the introductory text of paragraph (d) is amended by adding after ''Mexico'' the words '', and the origin of textile and apparel products covered by § 102.21 of this chapter,''; and

c. The introductory text of paragraph (e)(1) is amended by adding after ''Mexico'' the words ''and except for textile and apparel products''.

PART 102—RULES OF ORIGIN

1. The authority citation for Part 102 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

2. Section 102.0 is amended by removing the word ''This'' at the beginning of the first sentence and adding, in its place, the words ''Except in the case of goods covered by § 102.21, this'' and by adding a sentence at the end to read as follows:

§ 102.0 Scope.

* * * The rules for determining the country of origin of textile and apparel products set forth in § 102.21 apply for the foregoing purposes and for the other purposes stated in that section.

2. Section 102.11 is amended by adding an introductory paragraph before paragraph (a) to read as follows:

§ 102.11 General rules.

The following rules shall apply for purposes of determining the country of origin of imported goods other than textile and apparel products covered by § 102.21.

* * * * *

3. Section 102.21 is added to read as follows:

§ 102.21 Textile and apparel products.

(a) *Applicability.* Except for purposes of determining whether goods originate

in Israel or are the growth, product, or manufacture of Israel, and except as otherwise provided for by statute, the provisions of this section shall control the determination of the country of origin of imported textile and apparel products for purposes of the Customs laws and the administration of quantitative restrictions. The provisions of this section shall apply to goods entered, or withdrawn from warehouse, for consumption on or after July 1, 1996.

(b) *Definitions.* The following terms shall have the meanings indicated when used in this section:

(1) *Country of origin.* The term ''country of origin'' means the country, territory, or insular possession in which a good originates or of which a good is the growth, product, or manufacture.

(2) *Fabric-making process.* A ''fabric-making process'' is any manufacturing operation which begins with polymers, fibers, filaments (including strips), yarns, twine, cordage, or rope, and results in a textile fabric.

(3) *Knit to shape.* The term ''knit to shape'' applies to any good with an exterior surface area wholly comprised of one or more fabrics knitted or crocheted directly to the shape used in the good (except for fabric used for trimming the neck or front opening). Minor cutting or trimming of fabric will not affect the determination of whether a good is ''knit to shape.''

(4) *Textile or apparel product.* A ''textile or apparel product'' is any good classifiable in Chapters 50 through 63, Harmonized Tariff Schedule of the United States (HTSUS), and any good classifiable under one of the following HTSUS headings or subheadings:

3005.90
3921.12.15
3921.13.15
3921.90.2550
4202.12.40–80
4202.22.40–80
4202.32.40–95
4202.92.15–30
4202.92.60–90
6405.20.60
6406.10.77
6406.10.90
6406.99.15
6501
6502
6503
6504
6505.90
6601.10–99
7019.10.15
7019.10.28
7019.20
8708.21
8804
9113.90.40
9404.90.10
9404.90.80–95
9502.91
9612.10.9010

(5) *Wholly assembled.* The term ''wholly assembled'' when used with reference to a good means that all components, of which there must be at least two, preexisted in essentially the same condition as found in the finished good and were combined to form the finished good in a single country, territory, or insular possession. Minor attachments and minor embellishments (for example, appliques, beads, spangles, embroidery, buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, pockets), will not affect the status of a good as ''wholly assembled'' in a single country, territory, or insular possession.

(c) *General rules.* Subject to paragraph (d) of this section, the country of origin of a textile or apparel product shall be determined by sequential application of paragraphs (c) (1) through (5) of this section and, in each case where appropriate to the specific context, by application of the additional requirements or conditions of §§ 102.12 through 102.19 of this part.

(1) The country of origin of a textile or apparel product is the single country, territory, or insular possession in which the good was wholly obtained or produced.

(2) Where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1) of this section, the country of origin of the good is the single country, territory, or insular possession in which each foreign material incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement, specified for the good in paragraph (e) of this section.

(3) Where the country of origin of a textile or apparel product cannot be determined under paragraph (c) (1) or (2) of this section:

(i) If the good was knit to shape, the country of origin of the good is the single country, territory, or insular possession in which the good was knit; or

(ii) If the good was not knit to shape and the good was wholly assembled in a single country, territory, or insular possession, the country of origin of the good is the country, territory, or insular possession in which the good was wholly assembled.

(4) Where the country of origin of a textile or apparel product cannot be determined under paragraph (c) (1), (2) or (3) of this section, the country of origin of the good is the single country, territory, or insular possession in which the most important assembly or manufacturing process occurred.

(5) Where the country of origin of a textile or apparel product cannot be determined under paragraph (c) (1), (2), (3) or (4) of this section, the country of origin of the good is the last country, territory, or insular possession in which an important assembly or manufacturing process occurred.

(d) *Treatment of sets.* Where a good classifiable in the HTSUS as a set includes one or more components that are textile or apparel products and a single country of origin for all of the components of the set cannot be determined under paragraph (c) of this section, the country of origin of each component of the set that is a textile or apparel product shall be determined separately under paragraph (c) of this section.

(e) *Specific rules by tariff classification.* The following rules shall apply for purposes of determining the country of origin of a textile or apparel product under paragraph (c)(2) of this section:

HTSUS	Tariff shift and/or other requirements
3005.90	If the good contains pharmaceutical substances, a change to subheading 3005.90 from any other heading; or, If the good does not contain pharmaceutical substances, a change to subheading 3005.90 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5601 through 5603, 5801 through 5804, 5806, 5809, 5903, 5906 through 5907, and 6001 through 6002.
3921.12.15	A change to subheading 3921.12.15 from any other heading.
3921.13.15	A change to subheading 3921.13.15 from any other heading.
3921.90.2550	A change to subheading 3921.90.2550 from any other heading.
4202.12.40–4202.12.80	A change to subheading 4202.12.40 through 4202.12.80 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.

HTSUS	Tariff shift and/or other requirements
4202.22.40–4202.22.80	A change to subheading 4202.22.40 through 4202.22.80 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
4202.32.40–4202.32.95	A change to subheading 4202.32.40 through 4202.32.95 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
4202.92.15–4202.92.30	A change to subheading 4202.92.15 through 4202.92.30 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
4202.92.60–4202.92.90	A change to subheading 4202.92.60 through 4202.92.90 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
5001–5002	A change to heading 5001 through 5002 from any other chapter.
5003	A change to heading 5003 from any other heading, provided that the change is the result of garnetting. If the change to heading 5003 is not the result of garnetting, the country of origin of the good is the country of origin of the good prior to its becoming waste.
5004–5006	(1) If the good is of staple fibers, a change to heading 5004 through 5006 from any heading outside that group, provided that the change is the result of a spinning process. (2) If the good is of filaments, a change to heading 5004 through 5006 from any heading outside that group, provided that the change is the result of an extrusion process.
5007	A change to heading 5007 from any other heading, provided that the change is the result of a fabric-making process.
5101–5103	A change to heading 5101 through 5103 from any other chapter.
5104	A change to heading 5104 from any other heading.
5105	A change to heading 5105 from any other chapter.
5106–5110	A change to heading 5106 through 5110 from any heading outside that group, provided that the change is the result of a spinning process.
5111–5113	A change to heading 5111 through 5113 from any heading outside that group, provided that the change is the result of a fabric-making process.
5201	A change to heading 5201 from any other chapter.
5202	A change to heading 5202 from any other heading, provided that the change is the result of garnetting. If the change to heading 5202 is not the result of garnetting, the country of origin of the good is the country of origin of the good prior to its becoming waste.
5203	A change to heading 5203 from any other chapter.
5204–5207	A change to heading 5204 through 5207 from any heading outside that group, provided that the change is the result of a spinning process.
5208–5212	A change to heading 5208 through 5212 from any heading outside that group provided the change is the result of a fabric-making process.
5301–5305	(1) Except for waste, a change to heading 5301 through 5305 from any other chapter. (2) For waste, a change to heading 5301 through 5305 from any heading outside that group, provided that the change is the result of garnetting. If the change is not the result of garnetting, the country of origin of the good is the country of origin of the good prior to its becoming waste.
5306–5307	A change to heading 5306 through 5307 from any heading outside that group, provided that the change is the result of a spinning process.
5308	(1) Except for paper yarns, a change to heading 5308 from any other heading, provided that the change is the result of a spinning process. (2) For paper yarns, a change to heading 5308 from any other heading, except from heading 4707, 4801 through 4806, 4811, and 4818.
5309–5311	A change to heading 5309 through 5311 from any heading outside that group, provided that the change is the result of a fabric-making process.
5401–5406	A change to heading 5401 through 5406 from any other heading, provided that the change is the result of an extrusion process.
5407–5408	A change to heading 5407 through 5408 from any heading outside that group, provided that the change is the result of a fabric-making process.
5501–5502	A change to heading 5501 through 5502 from any other chapter, provided that the change is the result of an extrusion process.
5503–5504	A change to heading 5503 through 5504 from any other chapter, except from Chapter 54.
5505	A change to heading 5505 from any other heading, provided that the change is the result of garnetting. If the change is not the result of garnetting, the country of origin of the good is the country of origin of the good prior to its becoming waste.
5506–5507	A change to heading 5506 through 5507 from any other chapter, except from Chapter 54.
5508–5511	A change to heading 5508 through 5511 from any heading outside that group, provided that the change is the result of a spinning process.
5512–5516	A change to heading 5512 through 5516 from any heading outside that group, provided that the change is the result of a fabric-making process.
5601	(1) A change to wadding of heading 5601 from any other heading, except from heading 5105, 5203, and 5501 through 5507. (2) A change to flock, textile dust, mill neps, or articles of wadding, of heading 5601 from any other heading or from wadding of heading 5601.
5602–5603	A change to heading 5602 through 5603 from any heading outside that group, provided that the change is the result of a fabric-making process.
5604	(1) If the textile component is of continuous filaments, including strips, a change of those filaments, including strips, to heading 5604 from any other heading, except from heading 5001 through 5007, 5401 through 5408, and 5501 through 5502, and provided that the change is the result of an extrusion process. (2) If the textile component is of staple fibers, a change of those fibers to heading 5604 from any other heading, except from heading 5004 through 5006, 5106 through 5110, 5204 through 5207, 5306 through 5308, and 5508 through 5511, and provided that the change is the result of a spinning process.

HTSUS	Tariff shift and/or other requirements
5605–5606	If the good is of continuous filaments, including strips, a change of those filaments, including strips, to heading 5605 through 5606 from any other heading, except from heading 5001 through 5007, 5401 through 5408, and 5501 through 5502, and provided that the change is the result of an extrusion process; or If the good is of staple fibers, a change of those fibers to heading 5605 through 5606 from any other heading, except from heading 5106 through 5110, 5204 through 5207, 5306 through 5308, and 5508 through 5511, and provided that the change is the result of a spinning process.
5607	If the good is of continuous filaments, including strips, a change of those filaments, including strips, to heading 5607 from any other heading, except from heading 5001 through 5007, 5401 through 5406, and 5501 through 5511, and provided that the change is the result of an extrusion process; or If the good is of staple fibers, a change of those fibers to heading 5607 from any other heading, except from heading 5106 through 5110, 5204 through 5207, 5306 through 5308, and 5508 through 5511, and provided that the change is the result of a spinning process.
5608	(1) A change to netting of heading 5608 from any other heading, except from heading 5804, and provided that the change is the result of a fabric-making process. (2) A change to fishing nets or other made up nets of heading 5608: (a) If the good does not contain nontextile attachments, from any other heading, except from heading 5804 and 6002, and provided that the change is the result of a fabric-making process; or (b) If the good contains nontextile attachments, from any heading, including a change from another good of heading 5608, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
5609	(1) If the good is of continuous filaments, including strips, a change of those filaments, including strips, to heading 5609 from any heading, except from heading 5001 through 5007, 5401 through 5406, 5501 through 5502, and 5604 through 5607, and provided that the change is the result of an extrusion process. (2) If the good is of staple fibers, a change of those fibers to heading 5609 from any other heading, except from heading 5106 through 5110, 5204 through 5207, 5306 through 5308, 5508 through 5511, and 5604 through 5607, and provided that the change is the result of a spinning process.
5701–5705	A change to heading 5701 through 5705 from any other chapter.
5801–5803	A change to heading 5801 through 5803 from any other heading, including a heading within that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, and 6002, and provided that the change is the result of a fabric-making process.
5804.10	A change to subheading 5804.10 from any other heading, except from heading 5608, and provided that the change is the result of a fabric-making process.
5804.21–5804.30	A change to subheading 5804.21 through 5804.30 from any other heading, provided that the change is the result of a fabric-making process.
5805	A change to heading 5805 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, and 5512 through 5516, and provided that the change is the result of a fabric-making process.
5806	A change to heading 5806 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, and 5801 through 5803, and provided that the change is the result of a fabric-making process.
5807	A change to heading 5807 from any other chapter, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, and 6001 through 6002, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
5808.10	(1) If the good is of continuous filaments, including strips, a change of those filaments, including strips, to subheading 5808.10 from any heading, except from heading 5001 through 5007, 5401 through 5406, 5501 through 5502, and 5604 through 5607, and provided that the change is the result of an extrusion process. (2) If the good is of staple fibers, a change of those fibers to heading 5808.10 from any other heading, except from heading 5106 through 5113, 5204 through 5212, 5306 through 5311, 5401 through 5408, 5508 through 5516, and 5604 through 5607, and provided that the change is the result of a spinning process.
5808.90	(1) For ornamental fabric trimmings, a change to subheading 5808.90 from any other chapter, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, and 5512 through 5516, and provided that the change is the result of a fabric-making process. (2) For nonfabric ornamental trimmings: (a) If the trimming is of continuous filaments, including strips, a change to subheading 5808.90 from any other heading, except from heading 5001 through 5007, 5401 through 5408, 5501 through 5502, and 5604 through 5607, and provided that the change is the result of an extrusion process; or (b) If the trimming is of staple fibers, a change to subheading 5808.90 from any other heading, except from heading 5106 through 5113, 5204 through 5212, 5306 through 5311, 5401 through 5408, 5508 through 5516, and 5604 through 5607, and provided that the change is the result of a spinning process. (3) For tassels, pompons and similar articles: (a) If the good has been wholly assembled in a single country, territory, or insular possession, a change to subheading 5808.90 from any other heading; (b) If the good has not been wholly assembled in a single country, territory, or insular possession and the good is of staple fibers, a change to subheading 5808.90 from any other heading, except from heading 5004 through 5006, 5106 through 5110, 5204 through 5207, 5306 through 5308, and 5508 through 5511, and 5604 through 5607, and provided that the change is the result of a spinning process; or (c) If the good has not been wholly assembled in a single country, territory, or insular possession and the good is of filaments, including strips, a change to subheading 5808.90 from any other heading, except from heading 5001 through 5007, 5401 through 5406, and 5501 through 5502, and provided that the change is the result of an extrusion process.
5809	A change to heading 5809 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5801 through 5802, 5804, and 5806, and provided that the change is the result of a fabric-making process.
5810.10	A change to subheading 5810.10 from any other heading.

HTSUS	Tariff shift and/or other requirements
5810.91–5810.99	A change to subheading 5810.91 through 5810.99 from any other chapter, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5608, 5903, 5907, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
5811	A change to heading 5811 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5601 through 5604, 5801 through 5804, 5806, 5809 through 5810, 5903, 5907, and 6001 through 6002, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
5901–5903	A change to heading 5901 through 5903 from any other heading, including a heading within that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5803, 5806, 5808, and 6002, and provided that the change is the result of a fabric-making process.
5904	A change to heading 5904 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
5905	A change to heading 5905 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5603, 5803, 5806, 5808, and 6002, and provided that the change is the result of a fabric-making process.
5906–5907	A change to heading 5906 through 5907 from any other chapter, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5803, 5806, 5808, and 6002, and provided that the change is the result of a fabric-making process.
5908	(1) Except for yarns, twine, cord, and braid, a change to heading 5908 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5801 through 5802, 5806, 5808, and 6001 through 6002. (2) For yarns, twine, cord, and braid: (a) If the good is of continuous filaments, including strips, a change to heading 5908 from any other heading, except from heading 5001 through 5007, 5401 through 5406, and 5501 through 5502, and provided that the change is the result of an extrusion process; or (b) If the good is of staple fibers, a change to heading 5908 from any other heading, except from heading 5106 through 5110, 5204 through 5207, 5306 through 5308, and 5508 through 5511, and 5605 through 5607, and provided that the change is the result of a spinning process.
5909	A change to heading 5909 from any other chapter, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5603, 5801 through 5804, 5806, 5808, and 6001 through 6002, and provided that the good does not contain armor or accessories of nontextile material and provided that the change is the result of a fabric-making process; or A change to textile hosepiping with armor or accessories of nontextile material, of heading 5909, from any heading, including a change from another good of heading 5909, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
5910	(1) For belts and belting of braid, rope, or cord: (a) If the good is of continuous filaments, including strips, a change of those filaments, including strips, to heading 5910 from any other heading, except from heading 5001 through 5006, 5401 through 5406, and 5501 through 5502, and provided that the change is the result of an extrusion process; or (b) If the good is of staple fibers, a change of those fibers to heading 5910 from any other heading, except from heading 5106 through 5110, 5204 through 5207, 5306 through 5308, and 5508 through 5511, and provided that the change is the result of a spinning process. (2) For fabric belting and belts, not braids and not combined with nontextile components, whether or not reinforced with metal or other material, a change to heading 5910 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, 5808 through 5809, and 6001 through 6002, and provided the change is the result of a fabric-making process. (3) For fabric belts, including belts of braided materials, combined with nontextile components, whether or not reinforced with metal or other material, a change to heading 5910 from any heading, including a change from another good of heading 5910, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
5911.10–5911.40	A change to subheading 5911.10 through 5911.40 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
5911.90	(1) For goods of yarn, rope, cord, braid: (a) If the good is of continuous filaments, including strips, a change of those filaments, including strips, to subheading 5911.90 from any other heading, except from heading 5001 through 5006, 5401 through 5406, and 5501 through 5502, and provided that the change is the result of an extrusion process; or (b) If the good is of staple fibers, a change of those fibers to subheading 5911.90 from any other heading, except from heading 5106 through 5110, 5204 through 5207, 5306 through 5308, and 5508 through 5511, and provided that the change is the result of a spinning process. (2) If the good is a fabric, a change to subheading 5911.90 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, 5809, and 6001 through 6002, and provided that the change is the result of a fabric-making process. (3) If the good is a made up article, a change to subheading 5911.90 from any heading, including a change from another good of heading 5911, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
6001–6002	A change to heading 6001 through 6002 from any heading outside that group, provided that the change is the result of a fabric-making process.

HTSUS	Tariff shift and/or other requirements
6101–6117	(1) If the good is not knit to shape and consists of two or more component parts, a change to an assembled good of heading 6101 through 6117 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good is not knit to shape and does not consist of two or more component parts, a change to heading 6101 through 6117 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5806, 5809 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and subheading 6307.90, and provided that the change is the result of a fabric-making process. (3) If the good is knit to shape, a change to heading 6101 through 6117 from any heading outside that group, provided that the knit-to-shape components are knit in a single country, territory, or insular possession.
6201–6208	(1) If the good consists of two or more component parts, a change to an assembled good of heading 6201 through 6208 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to heading 6201 through 6208 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
6209.10.0000–6209.20.5035	(1) If the good consists of two or more component parts, a change to an assembled good of subheading 6209.10.0000 through 6209.20.5035 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to subheading 6209.10.0000 through 6209.20.5035 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
6209.20.5040	A change to subheading 6209.20.5040 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
6209.20.5045–6209.90.9000	(1) If the good consists of two or more component parts, a change to an assembled good of subheading 6209.20.5045 through 6209.90.9000 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to subheading 6209.20.5045 through 6209.90.9000 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
6210–6212	(1) If the good consists of two or more component parts, a change to an assembled good of heading 6210 through 6212 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to heading 6210 through 6212 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, 6001 through 6002, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
6213–6214	A change to heading 6213 through 6214 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
6215–6217	(1) If the good consists of two or more component parts, a change to an assembled good of heading 6215 through 6217 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to heading 6215 through 6217 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, and 6217, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
6301–6306	A change to heading 6301 through 6306 from any heading outside that group, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
6307.10	A change to subheading 6307.10 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, 5809 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
6307.20	A change to subheading 6307.20 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
6307.90	A change to subheading 6307.90 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, 5807 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and provided that the change is the result of a fabric-making process.

HTSUS	Tariff shift and/or other requirements
6308	A change to heading 6308 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5804, 5806, 5809 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
6309–6310	The country, territory, or insular possession in which the good was last collected and packaged for shipment.
6405.20.60	A change to subheading 6405.20.60 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
6406.10.77	(1) If the good consists of two or more components, a change to subheading 6406.10.77 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more components, a change to subheading 6406.10.77 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5608, 5801 through 5804, 5806, 5808 through 5810, 5903, 5906 through 5907, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
6406.10.90	(1) If the good consists of two or more components, a change to subheading 6406.10.90 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more components, a change to subheading 6406.10.90 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5608, 5801 through 5804, 5806, 5808 through 5810, 5903, 5906 through 5907, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
6406.99.15	(1) If the good consists of two or more components, a change to subheading 6406.99.15 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more components, a change to subheading 6406.99.15 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5608, 5801 through 5804, 5806, 5808 through 5810, 5903, 5906 through 5907, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
6501	(1) If the good consists of two or more components, a change to heading 6501 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more components, a change to heading 6501 from any other heading, except from heading 5603, and provided that the change is the result of a fabric-making process.
6502	(1) If the good consists of two or more components, a change to heading 6502 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more components, a change to heading 6502 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5608, 5801 through 5804, 5806, 5808 through 5810, 5903, 5906 through 5907, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
6503	(1) If the good consists of two or more components, a change to heading 6503 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more components, a change to heading 6503 from any other heading, except from heading 5603, and provided that the change is the result of a fabric-making process.
6504	(1) If the good consists of two or more components, a change to heading 6504 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more components, a change to heading 6504 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5608, 5801 through 5804, 5806, 5808 through 5810, 5903, 5906 through 5907, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
6505.90	(1) If the good consists of two or more components, a change to subheading 6505.90 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more components, a change to subheading 6505.90 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5608, 5801 through 5804, 5806, 5808 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and provided that the change is the result of a fabric-making process.
6601.10–6601.91	A change to subheading 6601.10 through 6601.91 from any other heading, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
7019.10.15	(1) If the good is of filaments, a change to subheading 7019.10.15 from any other heading, provided that the change is the result of an extrusion process. (2) If the good is of staple fibers, a change to subheading 7019.10.15 from any other subheading, except from subheading 7019.10.30 through 7019.10.90 and 7019.31 through 7019.90, and provided that the change is the result of a spinning process.
7019.10.28	(1) If the good is of filaments, a change to subheading 7019.10.28 from any other heading, provided that the change is the result of an extrusion process. (2) If the good is of staple fibers, a change to subheading 7019.10.28 from any other subheading, except from subheading 7019.10.30 through 7019.10.90 and 7019.31 through 7019.90, and provided that the change is the result of a spinning process.
7019.20	A change to subheading 7019.20 from any other heading, provided that the change is the result of a fabric-making process.

HTSUS	Tariff shift and/or other requirements
8708.21	(1) For seat belts not combined with nontextile components, a change to subheading 8708.21 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, and 5512 through 5516, and provided that the change is the result of a fabric-making process. (2) For seat belts combined with nontextile components, a change to an assembled good of subheading 8708.21 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
8804	(1) If the good consists of two or more component parts, a change to an assembled good of heading 8804 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to heading 8804 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5603, 5801 through 5804, 5806, 5809 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
9113.90.40	(1) If the good consists of two or more component parts, a change to an assembled good of subheading 9113.90.40 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession. (2) If the good does not consist of two or more component parts, a change to subheading 9113.90.40 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5603, 5801 through 5802, 5806, 5809, 5903, 5906 through 5907, and 6001 through 6002, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
9404.90.10	A change to subheading 9404.90.10 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
9404.90.80–9404.90.95	A change to subheading 9404.90.80 through 9404.90.95 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5602 through 5603, 5801 through 5806, 5809 through 5811, 5903, 5906 through 5907, and 6001 through 6002, and subheading 6307.90, and provided that the change is the result of a fabric-making process.
9502.91	A change to an assembled good of subheading 9502.91 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.
9612.10.9010	A change to subheading 9612.10.9010 from any other heading, except from heading 5007, 5111 through 5113, 5208 through 5212, 5309 through 5311, 5407 through 5408, 5512 through 5516, 5603, 5806, 5903, 5906 through 5907, and 6002, and provided that the change is the result of a fabric-making process.

Approved: May 15, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

George J. Weise,

Commissioner of Customs.

[FR Doc. 95–12655 Filed 5–22–95; 8:45 am]

BILLING CODE 4820–02–P

Federal Register

Tuesday
May 23, 1995

Part III

The President

Memorandum of May 17, 1995—Certification Regarding Use of the Exchange Stabilization Fund and Federal Reserve in Relation to the Economic Crisis in Mexico

Federal Register
Vol. 60, No. 99
Tuesday, May 23, 1995

Presidential Documents

Title 3—

The President

Memorandum of May 17, 1995

Certification Regarding Use of the Exchange Stabilization Fund and Federal Reserve in Relation to the Economic Crisis in Mexico

Memorandum for the Secretary of the Treasury

On January 31, 1995, I approved a program of assistance to Mexico, in the form of swap facilities and securities guarantees in an amount not to exceed $20 million, using the Exchange Stabilization Fund (the ''ESF program'').

By virtue of the authority vested in me by the Constitution and the laws of the United States, including section 301 of title 3, United States Code, and section 406 of the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (Public Law 104–6), I hereby certify that:

(1) There is no projected cost (as defined in the Federal Credit Reform Act of 1990) to the United States from the proposed swap transaction.

(2) All loans, credits, guarantees, and currency swaps to Mexico from the Exchange Stabilization Fund or the Federal Reserve System are adequately backed to ensure that all United States funds are repaid.

(3) The Government of Mexico is making progress in ensuring an independent central bank.

(4) Mexico has in effect a significant economic reform effort.

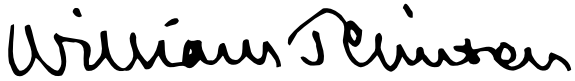
(5) The Executive Branch has provided the documents requested by House Resolution 80 adopted March 1, 1995, and described in paragraphs (1) through (28) of that Resolution. All documents identified as responsive to the Resolution have been provided to the entire House of Representatives. Pursuant to the terms of the Resolution, the Executive Branch has not provided those documents as to which the Executive Branch has informed the House that it would be inconsistent with the public interest to provide the documents to the House. Pursuant to arrangements for safekeeping of classified materials in House facilities, classified documents have been provided to the House by making them available either at designated, secure House facilities or at Executive Branch facilities. Each agency, including the Federal Reserve Board, has advised the House of the procedures employed by that agency to provide the documents requested by House Resolution 80.

I have been informed that the Board of Governors of the Federal Reserve System has provided the documents requested by House Resolution 80 and described in paragraphs (1) through (28) of that Resolution.

I hereby delegate to you the reporting requirement contained in section 406 of Public Law 104–6. You are authorized and requested to report this certification immediately to the Speaker of the House and appropriate congressional committees, as defined in section 407 of Public Law 104–6.

I also hereby delegate to you the reporting requirement contained in section 403 of Public Law 104–6.

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, May 17, 1995.

[FR Doc. 95–12812
Filed 5–19–95; 4:42 pm]
Billing code 4810–25–M

Federal Register

Tuesday
May 23, 1995

Part IV

The President

Proclamation 6803—National Maritime Day, 1995

Federal Register
Vol. 60, No. 99
Tuesday, May 23, 1995

Presidential Documents

Title 3—

The President

Proclamation 6803 of May 19, 1995

National Maritime Day, 1995

By the President of the United States of America

A Proclamation

The United States owes much to our merchant sailors. At our Nation's beginning, these outstanding citizens opened new avenues of commerce and helped nurture a fledgling democracy into a beacon of freedom for people around the world. Since President Franklin D. Roosevelt first proclaimed National Maritime Day 62 years ago, the U.S. Merchant Marine has built on its legacy of patriotism. Its great tradition of courage and valor is an inspiration to all Americans.

This year, as we honor those who served and sacrificed for our Nation during World War II, the contributions of the U.S. Merchant Marine are a special source of pride. We will always remember the heroism of those mariners and the dangers they faced to protect our liberty.

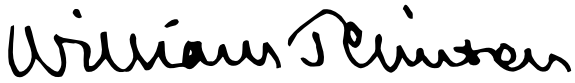
America's Merchant Marine and civilian seafarers have put themselves at risk time and again to support our Armed Forces. They provided pivotal service during OPERATION DESERT STORM, during America's humanitarian mission in Somalia, and throughout OPERATION RESTORE DEMOCRACY in Haiti.

Today, our country remains determined to maintain a strong U.S. flag presence on the high seas, a commitment central to advancing our Nation's national and economic security. I urge Americans to join efforts in support of maritime revitalization legislation and our ongoing shipbuilding production program. Americans' pioneering spirit has endowed our Nation with the most innovative maritime technologies and the most skilled maritime labor force on Earth. Working together, we can preserve this critical advantage for generations to come.

In recognition of the importance of the U.S. Merchant Marine, the Congress, by a joint resolution approved May 20, 1933, has designated May 22 of each year as ''National Maritime Day'' and has authorized and requested the President to issue annually a proclamation calling for its appropriate observance.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 22, 1995, as National Maritime Day. I urge the people of the United States to observe this day with appropriate programs, ceremonies, and activities and by displaying the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of May, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.



[FR Doc. 95–12847
Filed 5–22–95; 11:24 am]
Billing code 3195–01–P

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NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

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